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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 25.2.2011:—

BILL NO. 60 OF 2010

A Bill further to amend the Banking Regulation Act, 1949, *the Reserve Bank of India Act,* 1934 *and the Government Securities Act,* 2006.

WHEREAS, the committee constituted by the Reserve Bank of India to examine the carrying on of non-interest banking business in India, has opined that the extant provisions of the Banking Regulation Act, 1949 (10 of 1949) do not allow such an activity as such, certain amendments in the Banking Regulation Act, 1949 and other related laws have become imperative and, therefore, the present Bill proposes to incorporate necessary modifications in the laws so as to allow the banking companies to carry on non-interest banking business in India.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Banking Laws (Amendment) Act, 2010. Short title and Commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of Banking Regulation Act, 1949.

2. In the Banking Regulation Act, 1949, after Part V, the following Part shall be added, namely:— 10 of 1949.

"PART VI

APPLICATION OF THE ACT TO COMPANIES CARRYING ON NON-INTEREST BANKING

Act to apply to Banking Companies carrying on non-interest banking subject to modifications.

57. The provisions of this Act, as in force for the time being, shall apply to, or in relation to banking companies and branches of banking companies carrying on non-interest banking business as they apply to, or in relation to, banking companies subject to the following modifications, namely:—

(A) throughout this Act, unless the context otherwise requires,—

(*i*) references to "bank" or "a banking company" or "the company" or "such company", except in part V, shall be construed as reference to a banking company carrying on Non-interest Banking business.

(*ii*) reference to "commencement of this Act" shall be construed as reference to commencement of Banking Laws (Amendment) Act, 2010;".

(B) in section 5,—

(*i*) in clause (*a*), after sub-clause (*ii*), the following proviso and sub-clauses shall be inserted, namely:—

'Provided that the securities mentioned in clauses (*i*) and (*ii*) above, are certified by the *Shariah* of the bank as not involving any element of Riba;

(*iii*) *Mudaraba* Savings Bond or any other Profit Linked Bond, issued by the Government;

(*iv*) such of the securities, fund certificates and *Sukuk* certificates, which have been structured in accordance with the principles of *Shariah* and which have been authorized by the Central Government under clause (*f*) of section 20 of the Indian Trusts Act, 1882, as may be prescribed;'; 2 of 1882.

(*ii*) after the clause (*ca*), the following clause shall be inserted, namely:—

'(*cb*) "borrower" means a person on whose request the bank has opened a loan/investment account in his favour and/or extended to him any credit facility and the liability thus arising has not been fully repaid and includes the surety/guarantor of such a borrower;';

(*iii*) (*a*) after the clause (*d*), the following clause shall be inserted, namely:—

'(*da*) "compensation" means such financial penalty as is imposed on a borrower over and above the installment amount agreed to, when such a borrower fails to repay to a banking company the amount due, in accordance with the contract;';

(*b*) the existing clause (*da*) shall be re-numbered as clause (*db*);

(*iv*) after the clause (*db*), as so re-numbered, the following clause shall be inserted, namely:—

'(*dc*) "customer" means a person who has under any arrangement availed or agreed to avail the services provided by a bank and includes a person having any deposit or loan account;';

(*v*) after the clause (*f*), the following clauses shall be inserted, namely:—

'(*fa*) "deposit" means the placement of money with bank either on *Al-wadiah* basis or for the purpose of investment, which is structured in accordance with the principles of *Shariah*, bearing risk in the investment, with an entitlement to a share in the profit thereto (if any), and which represents an undivided ownership interest in the underlying assets of the investment;

(*fb*) "deposit account liability" means the deposit liabilities of a bank in respect of funds placed by a depositor with that bank on *Al-wadeeah* or *Mudaraba* Principle and forming part of the permitted deposit transactions;';

(*vi*) after clause (*ff*) the following clause shall be inserted, namely:—

'(*ffa*) "depositor" means any person from whom deposit has been received by a banking company whether the account is a current account on *Al-wadiah* principle or a savings account or short notice deposit account or a long term deposit account on *Mudaraba* principle;';

(*vii*) after the clause (*ffb*) the following clauses shall be inserted, namely:—

'(*ffba*) "lending or financing" in relation to a banking company carrying on non-interest banking business means extending credit facility to its customers and includes:

(*i*) an accommodation or facility provided on the basis of participation in profit and loss, mark-up or mark-down in price, hire-purchase, equity support, lease rent sharing, licensing charge or fee of any kind, purchase and sale of any property including commodities, patents designs, trademarks and copy rights, bills of exchange, promissory notes or other instruments with or without buy-back arrangements, participation term certificate, *Musharika, Morabaha, Musawama, Istisnah* or *Modaraba* certificate and term finance certificate; and

(*ii*) any other dealings or transactions or facilities specified by the Reserve Bank as permitted mode of financing a banking company carrying on Non-interest Banking business;

(*ffbb*) "loans or advances" in relation to a banking company carrying on non-interest banking business means the amount invested in the business or industry of a customer at the request of such customer under one of the permitted investment transactions;

(*ffbc*) "*Mudaraba* certificate" means a certificate issued on the basis of *Mudaraba*;

(*ffbd*) '*Musharika* certificate' means a certificate issued on the basis of *Musharika*;

(*ffbe*) "non-interest banking" means the business of banking carried on in conformity with the principles of Islamic *Shariah* both in forms and substance and avoiding *Riba* in all its transactions;

(*ffbf*) 'permitted deposit transactions' means such deposit transactions as have the sanction of *Shariah* Council and is not in conflict with any provision of this Act as applicable to a banking company carrying on non-interest banking business and includes deposits:

(*i*) under the *Al-wadeeah* Principle, in terms of which, the depositor places the fund at the disposal of a banking company

with a clear understanding that the fund is available to the bank at its own responsibility and the depositor is not entitled to share any profit earned or for any loss suffered by such use and that the bank has to pay back the deposit on demand made by the depositor and it includes (*a*) current account deposits (*b*) saving account deposits;

(*ii*) under the *Mudaraba* Principle, in terms of which, the depositor places the fund at the disposal of a banking company to be used at the discretion of the bank and the profit earned by the bank is shared at a predetermined ratio and the loss if any is borne by the depositor in proportion to his amount and it includes;

(*a*) *Mudaraba* savings deposit (MSD);

(*b*) *Mudaraba* short notice deposit (MSND);

(*c*) *Mudaraba* term deposit (MTD); and

(*d*) Any variations of the above deposits:

(*ffbg*) 'permitted mode of financing' in relation to a banking company carrying on non-interest banking business, means such mode as is based on Islamic *Shariah* and hence permitted for such companies to carry on and includes grant of loan at the request of the customer for any one of the following transactions:

(*i*) *"Bai-muajjal"* means a contract of sale whereby the seller delivers the goods to the purchaser on the spot, *i.e.*, at the time of signing of the sale contract and the purchaser is obliged to pay the ascertained purchase price on deferred payment basis;

(*ii*) "*Bai-Salam*" means a contract for the purchase or sale of commodities or equipments with prompt payment of the price for delivery of the commodity or equipment on a specified future date as per the agreed quality and quantity;

(*iii*) "*Ijara*" or "*lease*" in terms of which a banking company agrees to place the assets owned by it on rent to be paid at a predetermined rate by the user thereof and such user binds himself to return the assets at the end of the contract period;

(*iv*) "*Ijara muntahia bittamleak*" or a "Hire Purchase Agreement" in terms of which a banking company agrees to place the assets owned by it at the disposal of the customer who agrees to pay the price in installments and after all the installments have been paid, the customer acquires the title/ownership over the assets under the contract;

(*v*) "*Ijara musharaka mutanaqasa*" or "Ownership-cum-hire-purchase Agreement" in terms of which the Banking company agrees to part finance the purchase of any asset and acquires joint ownership with the customer where the customer uses the assets partly owned by the bank on rental basis and acquires full ownership over the same by paying such amount as agreed;

(*vi*) "*Istisna*" means a contract of sale of a described asset or item to be manufactured or constructed on spot or deferred payment basis;

(*vii*) "*Mudaraba*" means a contract between two parties where Sahib-al-Maal, *i.e.* banking company as the owner of the finance, provides capital and the other party provides labour, efforts or

expertise and agree to share profits in accordance with the agreed ratios, and losses, if any, are borne by the party providing the funds;

(*viii*) "*Murabaha*" means sale of goods by a seller to the purchaser at the price which is an aggregate of the actual cost price of the goods and a determined quantum of profit;

(*ix*) "*Murabaha* to the order of the purchaser" means a sale contract in which a purchaser identifies goods and provides an irrevocable and legally enforceable promise to purchase the identified goods from the seller on a *Murabaha* basis once the seller purchases the identified goods from a third party supplier relying on purchaser's promise;

(*x*) "*Musharaka*" means a partnership between two or more partners and is classified into the following:

(*a*) "*Sherkat Al Aqd* or Contractual Partnership" means an agreement between two or more parties to combine their assets (in kind or in cash) or to merge their services with the aim of making profit in accordance with the principles of *Shariah;*

(*b*) *"Sherkat Al Melk* or partnership of Ownership" means a partnership, which is constituted by virtue of co-ownership of assets by two or more persons thereby resulting in entitlement of each partner to the profits or revenues from the joint asset or appreciation in value thereof in proportion to the ownership of each partner and in bearing the loss accordingly in the same proportion, if any;

(*xi*) "Parallel *Istisna*" means a contract of *Istisna* except that it is entered into between the seller under the *Istisna* contract and a third party whereby the described asset or item to be manufactured or constructed is procured by the seller under the *Istisna* contract from the third party;

(*xii*) "Parallel *Salam*" means a contract of *Salam* except that it is entered into by the seller under the *Salam* contract and a third party whereby the described goods are procured by the seller under the *Salam* contract from the third party;

(*xiii*) "Financing of Work Contract" means a transaction where bank pays a specified amount of money to a person with a view to facilitate rendering of a specified service by such person and share the profit at an agreed rate;

(*xiv*) "*Mossat*" means contract between the owner of a field, orchard or garden on the one hand and the bank on the other, for providing agricultural advances with an agreement to divide the harvest in a specified ratio between the two parties;

(*xv*) "*Mozawaah*" means contract where bank truns over a specified plot of land for a specified period of time to another party for the purpose of cultivating the land and sharing the harvest;

(*xvi*)"*Salam*" means a contract of sale of goods which are described with precise and agreed specifications on the basis that the sale price should be paid by the purchaser in lump sum on the date of signing of the *Salam* contract with delivery of the described goods on an agreed future date; and

(*xvii*) "other modes of investments" which includes investments where it is permissible for Islamic banks to adopt any other mode of investment not covered in clauses (i) to (xvii) above or any variations thereof, provided that the underlying contract is considered by the *Shariah* council of the bank as confirming to Islamic jurisprudence;';

(*viii*) (*a*) after the clause (*j*), the following clauses shall be inserted, namely:—

'(*ja*) "principles of *Shariah or Shariah*" in relation to banking business means such principles of commercial and business transaction as have their origin in Holy Quran and the *Sunnah* of the Prophet (pbuh); along with what has been supported by *Ijma'a* or unanimity or proved by *Qiyas* or analogy and also includes the rulings of renowned Scholars based on the aforementioned sources of *Shariah;*

(*jb*) "profit" and "loss" means income or erosion or shortfall, as the case may be, from the investment made in the business, manufacturing or service sector, or industries run by the customers of the banking company;

(*jc*) "profit linked bond" means an investment bond issued by the Central or the State Governments or any other authority, as the case may be, where the yield is linked to the profit or loss of the investment;

(*jd*) "*Qurd Hassan*" means a contract of benevolent loan entered into between a lender and a borrower free of any interest or charge or an access for the benefit of lender and repayable either on agreed future date(s) or on demand of the lender, if agreed so;

(*je*) "*Riba*" in the context of deposits, means any predetermined positive return on the original amount for the use of money by the bank as acceptor of deposit and includes an amount in excess of the principal sum payable on the money lent by the bank, as a condition attached to the grant of loan or any other credit facility, without reference to the operational result of the activity undertaken with the help of such loan or credit facility;';

(*b*) the existing clause (*ja*) shall re-numbered as clause (*jf*);

(*ix*) after clause (*l*), the following clause shall be inserted, namely:—

'(*m*) "savings accounts liabilities" in relation to a banking company carrying on interest free banking means the total deposit at that bank which normally require the presentation of passbook or such other document as approved by Reserve Bank for the deposit and withdrawal of moneys;';

(*x*) (*a*) after clause (*n*), the following clause shall be inserted, namely:—

'(*na*) "sight liabilities" in relation to a banking company means the total deposit at the bank which are repayable on demand but does not include savings account liabilities or the deposit of any other bank or any financial institutions;';

(*b*) the existing clauses (*na*), (*nb*), (*nc*), (*nd*), (*ne*), (*ni*) shall be re-numbered as clauses (*nb*), (*nc*), (*nd*), (*ne*), (*nf*) and (*ng*), respectively;

(*xi*) after clause (ng), as so re-numbered, the following clause shall be inserted, namely:—

'(*nh*) "*sukuk* or *sukuk* certificate" means certificates, which are structured in accordance with the principles of *Shariah*, representing investment, bearing risk in the investment, with an entitlement to a share in the profit thereto, if any, and which represents an undivided ownership interest in the underlying assets;

(*ni*) "time liabilities" in relation to a banking company carrying on Non-interest Banking, means the total deposit at that bank which are repayable otherwise than on demand and does not include savings account liabilities or the deposit of any other bank;

(*nj*) "transaction" in relation to banking companies, means such business activity as are in accordance with the principles of *Shariah* as approved by the *Shariah* Council;

(*nk*) "*wakala*" means a contract whereby a principal or *Muwakkil* appoints the agent or Wakeel as its nominee or representative to perform a defined *Shariah* compliant activity on behalf of the principle for a fixed fee or without the consideration of a fee;';

(C) in section 6, after clause (o), the following clause shall be inserted, namely:—

'(*p*) carrying on non-interest banking business, by adopting any of the permitted modes of financing, subject to the condition that all transactions stipulated in clauses (a) to (o) is carried out in a manner that does not involve any element of Riba and is so certified by the *Shariah* Council of the bank.';

(D) after section 6, the following sections shall be inserted, namely:—

Mobilization of monetary resources.

'6A. An Islamic banking company may accept deposits under each of the following heads, namely:

(*i*) *Qarz Al Hasna*,

(*ii*) Savings deposits both an *Al-Wadeeah* principles and on term investment deposit,

(*iii*) Term deposit to be used in joint ventures, investment based on *Modarabah* principle, installment transaction, forward dealing and Joalah transaction.

Award for Mobilization of Loan.

6B. In order to mobilize deposit on *Al-Wadeeah* principle, the bank may give following reward to its depositors, namely:—

(*a*) non-fixed bonus in cash or in kind to depositors in current accounts;

(*b*) grant discount in payment of commission and/or fee for services rendered to the customer; and

(*c*) accord priority in the use of banking facilities.';

(E) in section 8, after the existing proviso, the following provisos shall be inserted, namely:—

'Provided further that this section shall, in the case of a banking company carrying on non-interest banking, apply subject to such exceptions as is allowed, under a general or special permission granted by the Reserve Bank:

Provided also that in order to meet the requirement of working capital, the bank may, at the request of an unit on its providing an undertaking to purchase and utilize the raw material as requested may purchase and resell the same to the unit on installment or otherwise or provide finance upon an agreement to purchase on a forward basis products of the said unit.';

(F) after section 8, the following section shall be inserted, namely:—

No banking company to involve itself in real estate business.

'8A. No banking company shall involve itself either directly or indirectly in the buying or selling of real estate, *i.e.* land and building:

Provided that a banking company carrying on interest free banking may acquire land for construction of residential units for lower and medium income group subject to such conditions as may be imposed by the Reserve Bank and subject also to the Compliance of relevant laws.';

(G) after section 9, the following section shall be inserted, namely:—

Acquisition, holding and disposal of banking assets.

'9A. A banking company may acquire, hold or dispose of any movable or immovable property subject to the condition that the same as acquired under the permitted mode of financing.',

(H) after section 10D, the following sections shall be inserted, namely:—

Shariah Council.

'10E. (*1*) Every banking company carrying on non-interest banking business shall constitute a *Shariah* Council and the members of the *Shariah* Council shall be nominated by the Board of Directors of the concerned Bank.

(*2*) The salary and allowances payable to, and other terms and conditions for the appointment of the members of *Shariah* Council, their qualifications and their number shall be as laid down in section 10F:

Provided that a banking company carrying on non-interest banking business through its branch or an extension counter may appoint a *Shariah* advisor in place of constituting a *Shariah* Council and the person so appointed shall meet such criteria as may be fixed for being a member of the council.

(*3*) It shall be open to a *Shariah* Council to refer to the *Shariah* Committee as constituted under Section 11A of the Reserve Bank of India Act, 1934, to seek their advice on any matter relating to the operation of the banking business on *Shariah* principle and the *Shariah* Committee of the Reserve Bank shall dispose of the matter as early as possible.'. 2 of 1934.

Members of *Shariah* Council.

10F. Except as may otherwise be authorized the reasons for which may be recorded in writing by the Reserve Bank, every person who is or is to be appointed as a member of the *Shariah* Council or as a *Shariah* Advisor of a bank shall fulfil the following conditions:—

(a) an *alim* or *fazil* or *Mufti* from recognized Islamic Educational Institutions with a minimum of second class Bachelor Degree in Economics from any recognized university or 3 years of experience of research and development in Islamic banking and finance; or

(*i*) is a law graduate from any recognized Indian University with at least three years experience in any bank or financial institution at a senior position and believes in *Shariah;* or

(*ii*) is a post-graduate in Muslim personal law from any recognized Indian University and believes in *Shariah;* and

(*b*) has a reasonable knowledge of Arabic and English languages;

(*c*) has not been debarred for giving religious rulings by any religious body;

(*d*) does not hold any office of profit under the Central Government or the State Government or any local body; and

(*e*) is not a *Shariah* advisor of any other bank.

Responsibilities of *Shariah* Council.

10G. The *Shariah* Council shall function as a body responsible to decide whether or not, the business being carried on or proposed to be carried on by the Islamic banking company conforms to the principles of *Shariah* and the view taken by the *Shariah* council shall be binding on the banking company.

Responsibilities of the board of the banking company.

10H. In addition to the responsibilities assigned to it under the Articles of Association, the Board of a banking company shall in consultation with the *Shariah* Council:—

(*a*) lay down broad features of various permissible transactions;

(*b*) lay down, the duties and responsibilities of the banking company in relation to a particular transaction;

(*c*) provide draft model document proposed to be used by such banking company for various transactions;

(*d*) specify any other conditions as deemed appropriate for giving full effect to the principles of *Shariah* in relation to a particular transaction or arrangement;

(*e*) develop new products and services which are *Shariah* complaint;

(*f*) list out prohibited transactions/arrangement which it considers not complying with the principle of *Shariah* and shall ensure that no such transactions are carried out; and

(*g*) report to the Reserve Bank every quarter or as frequently as directed by the Reserve Bank, whether or not the business of such a banking company including its branches, is being carried on in accordance with the principles of *Shariah* .';

(I) after section 17, the following section shall be inserted, namely:—

Reserve Fund and other funds.

'17A. (*1*) Without prejudice to the provisions of section 17, the Reserve Bank may lay down the extend and the manner in which a banking company carrying on non-interest banking business shall create a "capital and loss offsetting reserve".

(*2*) If the Reserve Bank is satisfied that in any particular year, the aggregate Reserve Fund of a banking company carrying on non-interest banking is adequate for its business, it may by order, grant exemption to such a banking company from allocating any amount to the "capital and loss off-setting reserve" for a specified period or may require the banking company to put the whole amount as "capital and loss off-setting reserve".';

(J) in section 20, in sub-section (*2*), for the words "loan or advance together with interest, if any", the words "loan or advance together with interest or profit as agreed to including compensation, if any" shall be substituted;

(K) in section 21, in sub-section (*2*), in clause (*e*), after the words "the rate of interest and" the word "/or" shall be inserted;

(L) in section 21, in sub-section (*2*), after clause (*e*), the following clause and proviso thereunder shall be inserted, namely:—

'(*f*) without prejudice to the provision of section 21, submission to the Reserve Bank after the last day of each month the particulars of all investment facilities granted by a banking company carrying on non-interest banking:

Provided that on examination of the particulars supplied by the banking company carrying on Non-interest Banking, it appears to Reserve Bank that any investment facility is being granted, to the detriment of the interests of the depositors of that bank, the Reserve Bank may by order to be recorded in writing, prohibit that bank from granting any further investment or credit facility or impose such restrictions on the grant thereof as Reserve Bank thinks fit and may further direct that bank to secure repayment of any such investment facility within such time and to such extent as may be specified in the order.';

(M) for section 21A, the following section shall be substituted:—

Rates of profit or return charged by a banking company not to be subject to scrutiny by courts.

'21A. Notwithstanding anything contained in the Usurious Loan Act, 1918, or any other law relating to indebtedness in force in any State, a transaction based on written contract, between a banking company and its debtor with whatever name called, shall not be reopened by any court only on the ground that the rate of profit or return or compensation as fixed by the bank in respect of such transaction, was excessive or unreasonable.'; 10 of 1918.

(N) after section 22, the following sections shall be inserted, namely:—

Licensing of interest free banking companies.

'22A (*1*) Without prejudice to the provisions of section 22 of this Act, while granting license to a company to carry on non-interest banking business, the Reserve Bank shall further satisfy itself that—

(*a*) the aims as also the operations of the banking business which the said company proposes to carry on, is in conformity with the principles of Islamic *Shariah* both in form and substance;

(*b*) in the Article of Association of the said company, there is a provision for the establishment of a *Shariah* advisory council, to advise the bank on the operation of its banking business and ensure that none of the transactions carried out by the bank involves any element which has not been approved by the *Shariah*; and

(*c*) the members of the proposed *Shariah* Council are persons who meet the fit and proper criteria, possess knowledge and understanding of Islamic *Fiqh* or Jurisprudence and are conversant with financial dealings or commercial contracts.

Establishment of branch, subsidiary, etc.

22B. (*1*) Subject to prior approval by the Reserve Bank, a banking company may undertake Non-interest Banking business in the following manner:—

(*a*) through the establishment of a branch; or

(*b*) through the establishment of a subsidiary; or

(*c*) by carrying on its entire business and operations conforming to the principles of *Shariah*.

(*2*) The banking company or a subsidiary or a branch of a banking company carrying on business in terms of sub-section (*1*) shall comply

with all *Shariah* regulatory standards and requirements as directed by the Reserve Bank.

Cancellation of the license.

22C. (*1*) Without prejudice to the provisions of section 22 of this Act, the Reserve Bank has any reason to believe that a banking company is pursuing such aims, or carrying on such operations, as is not in conformity with *Shariah*, it may, in the manner to be prescribed, cancel the license of such banking company or its branch for carrying on non-interest banking.';

(O) for section 24, the following section shall be substituted, namely:—

Maintenance of percentage of assets.

'24. (*1*) Every banking company carrying on non-interest banking business, shall maintain either in cash, gold or in any other unencumbered approved security, the value of which shall not at the end of business on any day, be less than such percentage of the total time and demand liabilities in India as may be prescribed by Reserve bank from time to time.

(*2*) The manner of determining assets and liabilities and the proportion of class wise maintainable assets shall be fixed by the Reserve Bank and the Reserve Bank may, in its discretion, provide ratios and the method of computing the amount for a banking company carrying on non-interest banking, at a rate different from the one applicable to banking companies carrying on interest based banking business.

(*3*) For the purpose of ensuring compliance with the provisions of this section, every banking company shall, not later than twenty days after the end of the month to which it relates, furnish to the Reserve Bank in the prescribed form and manner a monthly return showing particulars of its assets maintained in accordance with this section and its demand and time liabilities in India at the close of business on each alternate Friday during the month or if any such Friday is a public holiday on the close of business on the preceding working day.

(*4*) The minimum amount or amounts of the assets to be held shall be expressed in the form of a percentage or percentages which such assets bear to the savings account, time and other deposit liabilities of each bank and such other liabilities thereof as may be decided by Reserve Bank and the same may be varied by Reserve Bank from time to time by notice in writing to the bank.

(*5*) Whenever Reserve Bank issues a notice, under sub-section (*2*), varying the amount of liquid assets to be maintained by a banking company carrying on non-interest banking business or under sub-section (*3*), varying the components of the liabilities, it shall allow a period of grace, in which to comply with the provisions thereof as may be specified by the Reserve Bank.

(*6*) A banking company shall not, during any period of grace, in which it has failed to comply with any, notice under sub-section (*1*) without the approval of the Reserve Bank, lend to or invest any money with any person.

(*7*) Without prejudice to the provisions of sub-section (*2*), the Reserve Bank may require a banking company to furnish to it a return in the form and manner prescribed by it showing particular of its assets maintained in accordance with this Section and its demand and time liabilities in India, at the close of business on each day of a month.

(*8*) Where a banking company fails to comply with the requirement of sub-section (*1*), it shall become liable to pay penalty at such rate as may

be fixed by the Reserve Bank and thereafter if the amount required to be maintained on the next succeeding alternate Friday is still below the prescribed minimum, every Director, Manager or Secretary of the banking company who is knowingly and willingly a party to the default shall be punishable with a fine and if such default continues, with further fine for each subsequent alternate Friday on which the default continues.

(*9*) Notwithstanding anything contained in sub-section (7), if the Reserve Bank is satisfied on an application made by a defaulting banking company, that it had sufficient cause for its failure to comply with the provisions of Sub-section (*1*), the Reserve Bank may waive off fine from the officials of the bank.';

(P) for section 27, the following section shall be substituted, namely:—

Monthly returns and power to call for other returns and information.

'**27.** (*1*) Every banking company carrying on non-interest banking business shall, before the close of the month succeeding to which it relates, submit to the Reserve Bank such returns and in such forms as the Reserve Bank may prescribe for such company.

(*2*) Without prejudice to the generality of sub-section (*1*) such returns may relate to maintenance of Cash Reserve Ratio/Statutory Liquidity Ratio, capital adequacy, asset quality, management of investment account, balance sheet, profit & loss account, quality of earning and liquidity of the banking company.

(*3*) The Reserve Bank may call upon banking companies carrying on non-interest banking business to prepare their financial statement, balance sheet and profit and loss account, in such form as may be notified for this purpose.';

(Q) after section 28, the following section shall be inserted, namely:—

Certain information to be available to constituents.

'**28A.** Every banking company carrying on non-interest banking business shall exhibit in a conspicuous position in its every office or place of business in India—

(*i*) the full names of all its directors;

(*ii*) the full names of the members of its *Shariah* Council; and

(*iii*) the names and addresses of all the subsidiaries, for the time being, of the bank.';

(R) in section 29, for sub-section (*4*), the following sub-sections shall be substituted, namely:—

'(*4*) The Central Government, by a notification in the Official Gazette, may prescribe the Form suitable for a banking company carrying on non-interest banking business to enable it to submit its balance sheet and profit and loss account as required under sub-section (*2*) of this section.

(5) A banking company carrying on non-interest banking business shall follow the accounting standard as laid down by the Reserve Bank from time to time.';

(S) for section 31, the following section shall be substituted, namely:—

Audited annual balance sheet and profit and loss account to be published.

'31. (*1*) Every banking company carrying on non-interest banking business shall,—

(*a*) within fourteen days of the laying of its accounts in its annual general meeting, a copy each of its latest audited annual balance sheet and profit and loss account together with any note thereon and the report of the auditor, publish in at least two daily newspapers in India;

(*b*) forward to the Reserve Bank within three months of the closure of accounts of each financial year or such further period as the Reserve Bank may specify, three copies each of its latest audited annual balance sheet, profit and loss account, together with any note thereon and the reports of the auditor and the directors;

(*c*) in the case of a banking company having branches outside India, forward to the Reserve Bank, three copies of its latest audited annual balance sheet and profit and loss account in respect of its operations in each country outside India; and

(*d*) The Reserve Bank may require a banking company carrying on non-interest banking business to submit further or additional information as it may deem necessary either by way of explanation or otherwise with regard to the balance sheet and profit and loss accounts forwarded by the said banking company and such information shall be submitted within such period and in such manner as the Reserve Bank may specify.';

(T) after section 35A, the following section shall be inserted, namely:—

Additional power of the Reserve Bank in relation to companies carrying on non-interest banking business.

'35AA. (*1*) Without prejudice to the powers vested in the Reserve Bank in terms of Section 35A of this Act, the Reserve Bank may, for banking company carrying on non-interest banking, issue such directions as it deems necessary in relation to,—

(*a*) duties and responsibilites of the banking company in relation to each of the permissible transactions or class of transactions;

(*b*) preparation of model document for the use by a banking company; and

(*c*) prohibited transaction/arrangement.

(*2*) Where the Reserve Bank is of the opinion that any income earned by a banking company is not in conformity with the principles of *Shariah*, it may after allowing such company to have its say, direct the banking company to credit such income into the Prime Minister's Fund or any charity fund in such manner and under such terms as may be specified by the Reserve Bank.';

(U) after section 53, the following section may be inserted, namely:—

Tax neutrality of transactions or arrangements which conform to the principles and practice of Non-interest Banking business.

'53A. Notwithstanding anything contained in the Income Tax Act, 1961 or any other law relating to land revenue, the Central Government may, on the recommendation of the Reserve Bank, by notification in the Official Gazette, declare that certain transactions entered into or arrangements agreed to, between a banking company and its customers in terms of this part as may be specified in the Notification, will not be subjected to levy of any tax including Central Sales Tax, Excise Duty and the Value Added Tax.'.

43 of 1961.

APPLICATION OF THE RESERVE BANK OF INDIA ACT, 1934 TO COMPANIES CARRYING ON NON-INTEREST BANKING

Amendment of the Reserve Bank of India Act, 1934.

3. The Reserve Bank of India Act, 1934, shall apply to companies carrying on non-interest banking with the following modifications, namely: 2 of 1934.

Act to apply to Banking Companies carrying on non-interest banking subject to modifications.

(A) in section 9, in sub-section (*1*), for the words "the interest of co-operative and indigenous banks", the words "the interests of non-interest banking companies and of co-operative and indigenous banks" shall be substituted;

(B) after section 11, the following section shall be inserted, namely:—

Shariah Committee.

'11A. (*1*) **The Central Board shall constitute a *Shariah* Committee consisting of the following:—**

(*a*) **a Chairman to be appointed in the prescribed manner by the Central Board;**

(*b*) **a director to be appointed by the Central Board from amongst the Directors nominated under clause (*c*) of sub-section (*1*) of section 8 having such qualification and/or experience as may be deemed relevant for the committee;**

(*c*) **at least three additional members who shall be experts in the matter assigned to the committee subject to the condition that such a person is not subject to disqualification as specified in sub-section (*1*) sub-section (*2*) of section 10 and is not a member of the either House of Parliament or the Legislature of any State or of any local authority; and**

(*d*) **a member-secretary who shall be nominated by the Central Board and who shall be an officer of the Reserve Bank, not below the rank of Deputy General Manager.**

(*2*) The *Shariah* Committee shall meet at least once in three months or as frequently as decided by the Chairman.

(*3*) The *Shariah* Committee shall perform the following functions:—

(*a*) assist the Central Board in formulating policies for such banking companies and financial institutions as are carrying on Non-interest Banking/financing based on the principle of Islamic *Shariah;*

(*b*) monitor the products and services of non-interest banking companies and financial institutions operating on the principles of Islamic Jurisprudence and advise the Central Board, from time to time, whether such products and services are in conformity with the Islamic Commercial Law or *Shariah* and on matters related thereto;

(*c*) advise the Central Board on the propriety or otherwise of the products and services of the banking companies and financial institutions carrying on non-interest business;

(*d*) call for such information from the *Shariah* Councils of banking companies and financial institutions as it considers necessary for the purpose of carrying out its duties and each of the *Shariah* Councils shall be bound to provide the information called for;

(*e*) give decision on the matters referred to it by the *Shariah* Council for decision;

(*f*) without prejudice to the generality of the provisions of clause (*a*) and (*e*), the *Shariah* Committee shall have such other functions as may be assigned to it by the Central Board.

(*4*) Where on a complaint or otherwise, the *Shariah* Committee is of the opinion that any product or activity of a banking company or a financial institution is not in conformity with the Islamic Commercial Law or *Shariah,* the matter will be placed before the Central Board and the decision of the Board shall be final and binding on the banking company or financial institution, as the case may be.

(*5*) No member of the *Shariah* Committee shall be a member of the *Shariah* Council of any banking company or financial institution except when he is so nominated by Reserve Bank as a member of *Shariah* Council of any banking company or financial institution.

(*6*) A person appointed in terms of clause (*a*) or (*b*) of sub-section (*1*), shall be liable to be removed by the Central Government.

(*7*) A person appointed in terms of clause (*c*) or (*d*) of sub-section (*1*), shall be liable to be removed by the Central Board.';

(C) in section 42,—

(*i*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

'(*3*) If the average daily balance held at the Bank by a scheduled bank during any fortnight is below the minimum prescribed by or under sub-section (*1*) or sub-section 1A, such scheduled bank shall be liable to pay to the Bank in respect of the fortnight a fine by way of penalty as may be decided by the Bank and if during the next succeeding fortnight such average daily balance is still below the prescribed minimum, the amount of fine may further be enhanced in respect of that fortnight and each subsequent fortnight during which the default continues and such fine may be imposed as a percentage of the amount by which such balance at the Bank falls short of the prescribed minimum.';

(*ii*) in sub-section (*3A*), for the words "the penal interest at the increased rate of five per cent above the bank rate", the words "the fine" shall be substituted.

(*iii*) in sub-section (*5*), in clause (*c*), for the words "the penal interest or the penalty, as the case may be", the words "the fine at the normal or enhanced rate, as the case may be" shall be substituted.

(*iv*) in sub-section (*6*), after clause (*iii*), the following clause shall be inserted, namely:—

'(*iv*) is a banking company carrying on non-interest banking business in India.'.

APPLICATION OF THE GOVERNMENT SECURITIES ACT, 2006, TO COMPANIES CARRYING ON NON-INTEREST BANKING

38 of 2006.

4. The Government Securities Act, 2006, shall apply to companies carrying on non-interest banking with the modification—

Amendment of the Government Securities Act, 2006.

that in section 2, for clause (*f*), the following clause shall be substituted, namely:—

Act to apply to Banking Companies carrying on non-interest banking subject to modification.

'(*f*) "Government Security" means a security created and issued by the Government for the purpose of raising a public loan or for any other purpose as may be notified by the Government in the Official Gazette only having one of the forms mentioned in section 3 and shall include *Mudaraba* Savings Bond or any other Profit Linked Bond, issued by the Government;'.

STATEMENT OF OBJECTS AND REASONS

Non-interest banking has gained popularity all over the world. Some of the cities like London, Singapore, Tokyo and Hong Kong have emerged as hubs of non-interest banking. It is expected that introduction of such a banking system in India, will expand the outreach of credit facility to a vast section of the population. It is also likely to play an important role in expanding consumer choice and help in ensuring that all have access to competitively priced financial services.

The nationalisation of banks was an important step towards achieving financial inclusion. It has substantially increased credit access yet, a large section of the population is still left out of the ambit of banking services. Even after forty years since nationalisation about sixty percent of the population do not have access to formal banking and only 5.2% of villages have bank branches. Those who need finance most, like marginal farmers, landless labourers, oral lessees, self employed and un-organised sector enterprise, ethnic minority and women continue to form the financially excluded class. The financial exclusion of a large segment of the population has far-reaching implications for the socio-economic and educational uplift of the masses. These financially excluded class would not hesitate in sharing a "return" on their investment but they often find it difficult to meet the demand of a pre-determined return unrelated to the yield. If finance is available without the burden caused by pre-determined interest rates, it will be a welcome development specially for SME sector.

In the case of Muslims, the financial exclusion is partly because of certain beliefs that needs to be addressed. A large fund, earned as interest is lying in suspended accounts as depositors have not claimed the same. This money, if invested in profit-sharing basis can have a major impact on the economy. The Raghuram Rajan Committee report on financial sector reforms, submitted to the Government of India in 2006, observed that "certain faiths prohibit the use of financial instrument that pays interest. The non-availability of interest-free banking products results in some Indians, including those in the economically disadvantaged strata of society, not being able to access banking products and services due to reasons of faith." A larger section of the population may feel inclined to avail credit facility if interest-free banking products are available. If non-interest banking is introduced in India, it will also unleash the financial resources, which are at present lying dormant because of the non-availability of a suitable financial products. India with its present economic scenario is an attractive investment destination. Introduction of Islamic banking system may also open up opportunity of large *Shariah* compliant investments in India in the Infrastructure and other sectors.

In the year 2006, RBI had constituted a committee to examine the issue of non-interest banking in India which came to the conclusion that in view of the current statutory and regulatory framework it would not be feasible for banks in India or for branches of Indian banks abroad, to undertake non-interest banking activities. The present Bill is intended to promote certain modifications in the Banking Regulation Act, 1949 (10 of 1949), the Reserve

Bank of India Act, 1934 (2 of 1934) and the Government Securities Act, 2006 with a view to allow the banks in India and branches of Indian banks located abroad, to undertake non-interest banking activity.

NEW DELHI; ASADUDDIN OWAISI

December 3, 2009.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 (1), 274(1) AND 117(3) OF THE CONSTITUTION

[Copy of D.O. No. 6/6/2010-BO. II, dated 16 April, 2010 from Shri Pranab Mukherjee, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Banking Laws (Amendment) Bill, 2010 by Shri Asaduddin Owaisi, M.P., recommends under clause (1) of article 117 and clause (1) of article 274 for introduction and clause (3) of article 117 of the Constitution for consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Board of the Reserve Bank of India shall constitute a *Shariah* Committee for the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

It is likely to involve a recurring expenditure of rupees twenty crores per annum. A non-recurring expenditure of about rupees ten crores is also likely to be involved.

BILL NO. 46 OF 2010

A Bill to provide for the establishment of a permanent Bench of the High Court at Allahabad at Gorakhpur.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the High Court at Allahabad (Establishment of a permanent Bench at Gorakhpur) Act, 2010.

Establishment of a permanent Bench of the High Court at Allahabad at Gorakhpur.

2. There shall be established a permanent Bench of the High Court at Allahabad at Gorakhpur and such Judges of the High Court at Allahabad, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Gorakhpur in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Gorakhpur, Maharajganj, Kushinagar, Deoria, Ballia, Mau, Azamgarh, Siddarth Nagar, Sant Kabir Nagar and Basti.

STATEMENT OF OBJECTS AND REASONS

Judiciary is an important pillar on which Indian Democracy rests. When a person gets no relief from other quarters, judiciary is often his last resort. But even in judiciary, in view of the large number of pending cases, there is not much possibility of getting speedy justice. If justice is delayed, it amounts to denial of justice. The population of Uttar Pradesh is around eighteen crore. The eastern Uttar Pradesh which includes Gorakhpur, Basti and Azamgarh divisions has a population of around three crore. The people living in these areas have to travel hundreds of kilometres to pursue their cases. This is a painstaking, time consuming and costly exercise. There has been a long pending demand to establish a Bench of the High Court at Allahabad at Gorakhpur with a view to dispensing speedy justice to the people living in the eastern part of Uttar Pradesh. The establishment of a permanent Bench of the High Court at Allahabad at Gorakhpur will fulfil the needs of the people of the area.

Hence this Bill.

NEW DELHI;
March 22, 2010.

YOGI ADITYANATH

BILL NO. 99 OF 2010

A Bill further to amend the Commissions of Inquiry Act, 1952.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Commissions of Inquiry (Amendment) Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 3.

2. In section 3 of the Commissions of Inquiry Act, 1952,— 60 of 1952.

(a) in sub-section *(1),* after the existing proviso, the following proviso shall be inserted, namely:—

"Provided further that the time specified in the notification issued for the purpose of appointment of Commission of Inquiry shall not be more than three years."; and

(b) in sub-section *(4).* for the words "six months", the words "three months" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Commissions of Inquiry Act, 1952 empowers the Central Government and the State Governments to appoint Commissions of Inquiry to inquire into any definite matter of public importance involving cases of irregularities, etc. The objective behind appointment of such Commissions of Inquiry is to find out the truth behind the alleged irregularities, ensure justice for the victims and identification of the guilty.

However, experience has shown that Commissions of Inquiry take very long time period to submit their reports thereby defeating the purpose for which they are appointed. By the time they give their report, the issue has often lost its relevance. Hence, the aim of giving justice to the victims gets diluted and it does not serve any purpose. Moreover, due to inordinate long terms and repeated extentions given to the Commissions of Inquiry, the financial burden on the appropriate Government increases enormously thus causing waste of public money.

To overcome the aforesaid problem, it is necessary to amend the Commissions of Inquiry Act, 1952 to ensure that the report of the Commission of Inquiry is submitted within a period of three years from the date of its appointment and also to provide for laying, before each House of Parliament or, as the case may be, the Legislature of the State, the Report of the Commission together with a memorandum of action taken thereon by the Government within a period of three months of the submission of the report.

NEW DELHI;
July 14, 2010.

KIRIT PREMJIBHAI SOLANKI

BILL NO. 101 OF 2010

A Bill to amend the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in section 2, in clause (*c*), for the words "the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands", the words "the Scheduled Tribes who primarily reside in areas or villages or hamlets situated in or around forests and who depend on the forests or forest lands" shall be substituted. 2 of 2007.

STATEMENT OF OBJECTS AND REASONS

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 seeks to provide for forest rights and occupation of forest land by forest dwelling Scheduled Tribes and other traditional dwellers who have been residing there for generations.

The aim of the Government and the spirit of the Act is to protect the rights of all Scheduled Tribes, irrespective of the fact whether they are living in the forest or in any village or hamlet in and around forests not covered under Scheduled Areas. However, in the present Act, Scheduled Tribes living in villages and hamlets situated in the areas which are not Scheduled Areas have not been expressly given the same rights as the Scheduled Tribes living in the Scheduled Areas, although they are also equally entitled for forest rights as they entirely depend on forests for their livelihood. They also deserve to be given their rightful share, as they have no other source of income of their own. For example, in Andhra Pradesh, there are more than 800 villages situated in or around forests which are totally inhabited by Scheduled Tribes but they are not treated as forest dwelling Scheduled Tribes and are thereby denied of their forest rights even under the above Act because these areas are not covered within the meaning of Scheduled Areas.

So, the objective of the Bill is to redefine the phrase 'forest dwelling Scheduled Tribes' under section 2(*c*) of the Act. By amending the phrase 'forest dwelling Scheduled Tribes', forest rights have not only been extended to tribes living in forests of Scheduled Areas but also to tribes living in villages and hamlets which are situated in and around the forest areas falling in non-Scheduled Areas.

The Bill seeks to achieve the above objective.

NEW DELHI;
July 15, 2010.

L. RAJAGOPAL

BILL NO. 100 OF 2010

A Bill further to amend the Commission of Sati (Prevention) Act, 1987.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Commission of Sati (Prevention) Amendment Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Commission of Sati (Prevention) Act, 1987 (hereinafter referred to as the principal Act), in clause (e), after the words 'constructed or made', the words "on or after the 16th day of August, 1947" shall be inserted. 3 of 1988.

Amendment of section 3.

3. In section 3 of the principal Act, for the words "six months or with fine or with both", the words "five years or fine which may extend to two lakh rupees or with both" shall be substituted.

4. In section 4 of the principal Act,— Amendment of section 4.

(*i*) in clause (*1*), for the words "shall also be liable to fine.", the words "shall also be liable to fine which shall not be less than five lakh rupees." shall be substituted; and

(*ii*) in clause (*2*), for the words "shall also be liable to fine.", the words "shall also be liable to fine which shall not be less than two lakh rupees." shall be substituted.

5. For section 5 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 5.

"5. Whoever does any act for the glorification of *sati* shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.". Punishment for glorification of *Sati*.

6. In section 6 of the principal Act, in clause (*3*), for the words "imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine which shall not be less than five thousand rupees but which may extend to thirty thousand rupees", the words "imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees" shall be substituted. Amendment of section 6.

7. In section 7 of the principal Act, in clause (*1*), for the words "in existence for not less than twenty years", the words "in existence from or after the 16th day of August, 1947" shall be substituted. Amendment of section 7.

STATEMENT OF OBJECTS AND REASONS

Sati or the burning or burying alive of a widow or a woman is revolting to the feelings of human nature and is nowhere enjoined in any of the religions of India as an imperative duty. It is necessary to take effective measures to prevent the commission of *Sati* and its glorification as it is no less a deplorable act and, justifiably, a heinous crime against women. There is a feeling among people that the practice of *sati* is another tool to oppress women. It is ridiculous that such a burden is placed only on the women whose existence is considered meaningless after the death of her husband.

Parliament has enacted the Commission of *Sati* (Prevention) Act, 1987, with a view to provide for more effective prevention of the commission of *Sati* and its glorification in the country. In spite of enactment of this legislation, incidents of *Sati* are reported from various parts of the country, particularly northern India. The incident of *Sati* in the year 2005 at Bahundari village in the State of Uttar Pradesh where an old woman was forced to commit *Sati* evoked sharp reaction from all sections of the society. Other incidents have also taken place after this but many of them are not coming to light due to various reasons. The conviction rate in offences under the Commission of *Sati* (Prevention) Act, 1987 is very low. The punishment which can be awarded to culprits under the Act is not deterrent.

In view of this and to eliminate the barbaric custom of consigning a vibrant life to the flames of a funeral pyre in the country, the Bill is proposed to make the provisions in the existing legislation more stringent so that it works as a deterrent to those who commit *Sati* or involve in the abetment of *Sati* or glorify *Sati* in the country.

The Bill seeks to achieve the above objectives.

NEW DELHI;
July 15, 2010.

L. RAJAGOPAL

BILL NO. 98 OF 2010

A Bill further to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Amendment) Act, 2010.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 14.

2. In section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, after sub-section (*1*), the following provisos shall be inserted, namely:— 54 of 2002

"Provided that the secured creditor, while making request to the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, for taking possession or control of any secured asset, shall file an affidavit to the effect that the secured asset in question does not fall within any of the exemptions provided under section 31:

Provided further that where the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, is of the view that the secured asset in question is an agricultural property, he shall, before passing any order, afford an opportunity of being heard to the parties interested in the matter.".

STATEMENT OF OBJECTS AND REASONS

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was enacted for speedy recovery of loan amount by Banks and Financial Institutions by making provisions for taking possession of secured assets by secured creditors.

Section 14 of the Act provides that if the secured creditor approaches the Chief Metropolitan Magistrate or the District Magistrate for taking possession of a secured asset, the Chief Metropolitan Magistrate or the District Magistrate shall, as the case may be, take possession of such asset and documents relating thereto and forward such asset and documents to the secured creditor.

Section 31 provides, *inter alia,* that the provisions of the Act shall not apply in cases of any security interest created in agricultural land. However, in numerous cases agricultural land has been attached by the Chief Metropolitan Magistrate or the District Magistrate and the plea of the debtor that attachment of agriculture land is barred under section 31 are rejected on the ground that under section 14 of the Act, the Chief Metropolitan Magistrate or the District Magistrate has no choice except to take possession of the asset and hand it over to the secured creditor.

The only remedy available to a debtor is to approach the Debt Recovery Tribunal. The process for getting relief from the Debt Recovery Tribunal is time consuming and by the time the relief is granted by the Debt Recovery Tribunal, irreparable loss is already caused to the standing crops.

The Bill seeks to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 with a view to provide that—

(1) The secured creditor while making a request to the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, for taking possession or control of any secured asset shall file an affidavit that the secured asset does not fall within any of the exemptions provided under section 31 of the Act; and

(2) Where the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, is of the view that the secured asset in question is an agricultural property, he shall afford an opportunity of being heard to the parties interested in the matter before passing any such order under the Act.

Hence this Bill.

NEW DELHI;
July 26, 2010.

P.T. THOMAS

BILL NO. 106 OF 2010

A Bill to provide for protection of cows and its progeny.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Cow (Protection) Act, 2010.

(*2*) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in relation to a State, the Government of that State and in all other cases, the Central Government;

(b) "cow" includes its progeny; and

(c) "prescribed" means prescribed by rules made under this Act.

3. Slaughter of cow is hereby prohibited. Prohibited of Slaughter of cow

4. *(1)* **The appropriate Government shall cause to be established adequate number of shelters for reception and care of stray cows.** Appropriate Government to established shelters for cows.

(*2*) **The shelters shall be maintained in such manner as may be prescribed.**

5. (*1*) It shall be the duty of every citizen to inform such authority of the appropriate Government, as it may designate, about any stray cow noticed by him. Duty of every citizen to inform the designated authority.

(*2*) On receipt of such information, the designated authority shall, as early as possible, take the stray cow to the nearest shelter.

6. The provisions of this Act and rules made thereunder shall have effect notwithstanding that the provisions of this Act are inconsistent with any other law for the time being in force. Act to have overriding effect.

7. *(1)* The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Article 48 of the Constitution provides that the State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breed, and prohibiting the slaughter of cows and calves and other milch and draught cattle. It may be observed that article 48 casts a duty upon the Government to prohibit slaughter of cows and calves.

Cow is held in high esteem since times immemorial and also worshipped by millions of people in our country. It is reared in almost every household in the rural area. Its milk is beneficial and nutritious for children and the sick persons. It serves the nation in many fields of life.

However, it is a fact that cow is subjected to cruelty and atrocity. It is in the interest of the nation to take effective steps to prevent cruelty to cows by prohibiting slaughter of cows, which is the extreme form of cruelty. It is, therefore, necessary to have legislation not only for banning slaughter of cow but also for providing protection, shelter and care to cow and its progeny in the country.

The Bill seeks to provide for establishment of cow shelters for taking care of stray and abandoned cows and for prohibition of slaughter of cow and its progeny in the country.

Hence this Bill.

NEW DELHI;
July 27, 2010.

CHANDRAKANT KHAIRE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of adequate number of cow shelters for reception and care of stray cows by the appropriate Government. The expenditure relating to States shall be borne out of the Consolidated Funds of the respective States. However, the expenditure in respect of Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five hundred crores per annum.

An non-recurring expenditure of about rupees one thousand crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 104 OF 2010

A Bill to provide for the welfare of agricultural workers and for matters connected therewith.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Agricultural Workers Welfare Act, 2010.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "agricultural workers" means a person who follows one or more of the following agricultural occupations in the capacity of labourer on hire or in exchange whether in cash or in kind or partly in cash and partly in kind:—

(*i*) farming, including the cultivation and tillage of soil;

(*ii*) dairy farming;

(*iii*) pisciculture;

(*iv*) production, cultivation, growing and harvesting of any horticulture, floriculture commodity;

(*v*) raising of livestock, bee-keeping or poultry;

(*vi*) any practice performed on a farm as incidental to, or in conjunction with, the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products); and

(*vii*) growing fodder or thatching grass or for grazing cattle;

(*b*) "appropriate Government" means the Central Government or a State Government, as the case may be;

(*c*) "prescribed" means prescribed by rules made under this Act.

Formulation of a scheme for the welfare of Agricultural workers.

3. *(1)* As soon as may be, but not later than one year from the commencement of this Act, the Central Government shall, in consultation with the State Governments, formulate a scheme for the Welfare of Agricultural workers.

***(2)* Without prejudice to the generality of the foregoing provision, the scheme shall provide for the agricultural workers,—**

(*i*) a comprehensive insurance scheme;

(*ii*) old age pension;

(*iii*) free health care facilities; and

(*iv*) payment of compensation in cases of accident during agricultural operations.

Implementation of the scheme.

4. The appropriate Government shall take steps to implement the schemes formulated under section 3 in such manner and within such time as may be prescribed.

Constitution of Agricultural Workers Welfare Fund.

5. *(1)* The Central Government shall constitute a Fund to be known as the Agricultural Workers Welfare Fund to which the Central Government and the State Governments shall contribute in such ratio as may be prescribed.

***(2)* The Fund constituted under sub-section *(1)* shall be utilized to give effect to the provisions of this Act.**

Power to make rules.

6. *(1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The economy of our country depends, to a considerable extent, upon agriculture. More than 65% of the population in the country is directly or indirectly engaged in agriculture. Lakhs of workers are involved in agricultural operations. But their role as key contributors in the national economy has never been given due importance. They live in miserable conditions. They are not even paid the minimum wages which they are entitled to get. They do not have any access to health care, pension and other such benefits.

The miserable living conditions of the agricultural workers largely go unnoticed as they are in unorganized sector and they do not have any forum to vent their grievances. They have been a neglected lot.

Therefore, it is proposed in the Bill to formulate a scheme for the welfare of agricultural workers.

NEW DELHI;
July 27, 2010.

A.T. NANA PATIL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for formulation of a scheme for the welfare of agricultural workers. Clause 4 provides for implementation of the scheme for the welfare of agricultural workers. Clause 5 provides for constitution of an Agricultural Workers Welfare Fund. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten thousand crore per annum will be involved.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 105 OF 2010

A Bill further to amend the Railways Act, 1989.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Railways (Amendment) Act, 2010.

Insertion of new chapter XIIIA.

2. In the Railways Act, 1989, after chapter XIII, the following chapter and section thereunder shall be inserted, namely:— 24 of 1989.

"CHAPTER XIIIA

RESPONSIBILITY OF RAILWAY ADMINISTRATION TO INSURE LIFE AND GOODS OF PASSENGERS.

Insurance of life and goods of valid passengers travelling in train.

129A. (*1*) Notwithstanding anything contained in this Act, the railway administration shall enter into contract with any of the Government owned insurance companies for insurance of the life of the passengers and the goods owned by them.

(*2*) For the purpose of sub-section (*1*), the railway administration shall determine the rate of premium to be paid by every passenger according to the class by which he travels in consultation with the insurance companies.

(*3*) The insurance amount payable to a passenger shall be in addition to any other payment including the amount of compensation payable under the other provisions of this Act.".

STATEMENT OF OBJECTS AND REASONS

Railway accidents are on the increase. Some accidents happen either due to human or technical error whereas some accidents are the result of terrorist activities. In every accident, a large number of lives are lost and a number of people are injured also. Under the existing rules, there is a provision for *ex gratia* payment and compensation for loss of life or injury. But the amount of compensation is very less and it takes a number of years to settle a claim. In many cases, the income and status of the victim is not taken into consideration by the Tribunal. In many cases, the compensation amount is the same irrespective of the fact whether the deceased or injured person belonged to high income category or low income category.

To avoid such a situation, it is proposed to amend the Railways Act to formulate an insurance scheme to compensate the victims in railway accidents. The Railways can charge the premium along with the ticket and it may vary the premium rate in accordance with the class of travel in train. The rate of premium payable by passengers can also be taken into consideration for providing the insurance cover. Since this would be in addition to compensation payable under the present dispensation, the victims of train accidents will be benefited under the scheme.

The Bill seeks to achieve the above objective.

NEW DELHI;
July 27, 2010.

A.T. NANA PATIL

BILL NO. 122 OF 2010

A Bill to provide for the constitution of a Commission to fix the prices of essential commodities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Commission for Fixation of Prices of Essential Commodities Act, 2010.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*i*) "agricultural commodities" include paddy, wheat, pulses, bajra, jowar, millet, madwa, maize, soyabean, sugarcane, cotton, oilseeds, jute, spices or horticultural produce, which is used for human consumption;

(*ii*) "Commission" means the Commission for Fixation of Prices of Essential Commodities constituted under section 3;

(*iii*) "essential commodities" means essential commodities defined in clause (a) of section 2 of the Essential Commodities Act, 1955; 10 of 1955.

(*iv*) "manufactured goods" means all goods and items that have been manufactured by use of machinery run by use of electricity and are meant for the use and consumption of the consumers; and

(*v*) "prescribed" means prescribed by rules made under this Act.

Constitution of the Commission for Fixation of Prices of Essential Commodities.

3. (*1*) The Central Government shall, by notification in the Official Gazette, constitute a commission to be known as the Commission for Fixation of Prices of Essential Commodities to exercise the powers conferred upon, and to perform the functions assigned to it under this Act.

(*2*) The Commission shall consist of:—

(*i*) a Chairperson who shall be a retired judge of the Supreme Court;

(*ii*) five members of Parliament, of whom three shall be from the House of the People and two shall be from the Council of States, to be nominated by the presiding officers of the two Houses;

(*iii*) three members representing farmers;

(*iv*) three members representing the industrial sector;

(*v*) three economists who shall be nominated by the Central Government; and

(*3*) the Secretary to the Government of India in-charge of the Department of Consumer Affairs shall be the *ex-officio* Secretary to the Commission.

(*4*) The salary and allowances payable to, and other terms and conditions of the service of the Chairperson, members and Secretary of the Commission, shall be such as may be prescribed.

(*5*) The head office of the commission shall be at New Delhi.

(*6*) The Central Government shall provide such number of officers and staff to the Commission as are required for its efficient functioning.

(*7*) The salary and allowances payable to, and other terms and conditions of the service of the officers and staff of the Commission, shall be such as may be prescribed.

Functions of the Commission.

4. (*1*) The Commission shall perform the following functions:—

(*a*) determine the retail prices of agricultural commodities subject to the condition that the retail price of a commodity during a year is not increased by more than six per cent. of its price during the previous year;

(*b*) determine the retail prices of the manufactured goods subject to the condition that the retail price of a manufactured good shall not be more than one and a half time of their cost of production;

(*c*) payment of remunerative prices to the farmers for their produce in consultation with the Commission for Agricultural Costs and Prices; and

(*d*) monitor the supply of foodgrains and other essential commodities and recommend appropriate action against the persons found guilty of hoarding, profiteering and black marketing of essential commodities.

(*2*) The Commission shall monitor the supply of foodgrains and other essential commodities and recommend appropriate action against the persons found guilty of hoarding, profiteering and black marketing of essential commodities.

(*3*) In discharge of its functions under the Act, the Commission shall consult the State Governments and such other agencies as it thinks fit.

(*4*) The Commission shall, as often as it may consider necessary, send a report containing its recommendations to the Central Government.

Maximum retail prices of essential commodities to be prescribed by the Central Government.

5. The Central Government shall determine the maximum retail prices of essential commodities including the agricultural commodities and the manufactured goods on the basis of the recommendations of the Commission.

Penalties

6. Any person who charges or demands a price more than the maximum retail price determined by the Central Government under section 5, shall be treated as guilty of contravening an order made under section 3 of the Essential Commodities Act, 1955 and shall be punished in accordance with the provisions of section 7 of that Act. 10 of 1955.

Act to have overriding effect.

7. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to supplement other laws.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with any of the matters dealt with in this Act.

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Presently the common man is severely affected by rapidly rising prices of essential commodities. Efforts being made by the Government in this regard are turning out to be ineffective. As a result, people are dissatisfied on this issue as this affects their quality of life. The determination of prices of essential commodities depends on the market factor. The Government has no control over it. Owing to this fact, people with vested interest are making huge profits while the common man is facing difficulties. There is no balance in the price between the agricultural commodities produced by the farmers and the goods manufactured in factories. Though minimum support price for certain agricultural products is fixed by the Government, even then the farmers are compelled to sell their produce at a low price. It is the middlemen who garner huge profits by selling the agricultural produce at very high prices.

On the other hand, the manufacturers, acting as a cartel, arbitrarily inflate the prices of the goods manufactured in factories and Government has no control over it.

Therefore, constitution of a Commission for Price Rise Control and Fixation of Rates of Commodities at the national level comprising of representatives of farmers, industrialists, economists and the public representatives will go a long way in curbing the price-rise. The Commission has to formulate a system wherein increase in retail prices will not be more than six per cent in one year between the sowing of the next crop and the retail prices of the products manufactured in factories should not be more than one and a half times of its cost. This policy is also in tune with what was propounded by Dr. Ram Manohar Lohia.

The Bill seeks to achieve the above objectives.

NEW DELHI;
July 30, 2010.

RAGHUVANSH PRASAD SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Commission for Fixation of Prices of Essential Commodities. It also provides for salary and allowances of the Chairman, members and Secretary of the Commission. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees ten crore would be involved.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 120 OF 2010

A Bill to provide for the regulation of fee in technical educational institutions, medical educational institutions and universities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Technical Educational Institutions, Medical Educational Institutions and Universities (Regulation of Fee) Act, 2010.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Council" means the National Council for Educational Cost and Prices established under section 3;

(*b*) "fee" means any amount demanded or charged or collected, directly or indirectly, for, or, on behalf of any institution, or paid by any person in consideration for admitting any person as student in an institution;

(*c*) "institution" means a technical educational institution or medical educational institution or any such institution registered under the Societies Registration Act, 1860 and recognised as such by the appropriate statutory authority or a university as defined in section 2 of the University Grants Commission Act, 1956 and includes an institution deemed to be a university under section 3 of that Act or under any other law for the time being in force; and

21 of 1860.

3 of 1956.

(*d*) "prescribed" means prescribed by rules made under this Act.

Establishment of the National Council for Educational Cost and Prices.

3. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Council to be known as the National Council for Educational Cost and Prices.

Composition of the Council.

4. (*1*) The Council shall consist of a Chairperson and six members, who shall be appointed by the Central Government from amongst persons having special knowledge in the field of higher education, public affairs or administration in educational matters and atleast twenty-five years of experience in the field.

(*2*) The following shall be *ex-officio* members of the Council—

(*a*) the Director of the Indian Institute of Technology, Delhi;

(*b*) the Director of the All India Institute of Medical Sciences, New Delhi;

(*c*) the Vice-Chancellor of Jawaharlal Nehru University, New Delhi;

(*d*) the Director of Delhi School of Economics, New Delhi;

(*e*) the Director of Indian Institute of Management, Ahmedabad; and

(*f*) the Director of Indian Institute of Sciences, Bengaluru.

Salaries and other terms and conditions of service of Chairperson and members of the Council.

5. (*1*) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and members of the Council, except the *ex- officio* members, shall be such, as may be prescribed, by the Central Government.

(*2*) The allowances payable to the Chairperson and members of the Council including the *ex-officio* members for attending the meetings of the Council shall be such, as may be prescribed by the Central Government.

Staff of Council.

6. (*1*) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Council in the discharge of its functions and provide the Council with such officers and other employees as it may think fit.

(*2*) The salaries and allowances payable to, and other terms and conditions of the staff of the Council shall be such as may be prescribed by the Central Government.

Meeting of the Council.

7. The Council shall meet at such time and places, and shall observe such rules of procedure in regard to the transaction of its business, including the quorum at such meetings, as may be prescribed by the Central Government.

Council to advise on matters relating to fee charged by institutions.

8. The Council shall advise and recommend to the Central Government on matters relating to fixation of fee to be charged by various institutions for a particular course of study.

Central Government to prescribe fee limit.

9. The Central Government shall prescribe the maximum amount of fee that can be charged by an institution on the basis of the recommendations of the Council.

Penalty for demanding fee in excess of the prescribed limit.

10. Any institution, which demands or accepts any fee or donation, in any manner whatsoever, in violation of the provisions of section 9, shall, without prejudice to proceedings for prosecution under the provisions of this Act or any other law for the time being in force, be liable to a penalty which may extend to fifty lakh rupees.

Payment of sums to the Council.

11. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council in each financial year such sums as may be considered necessary to the Council for performing its functions under the Act.

Power to make rules.

12. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There has been an unprecedented growth in the number of students pursuing higher education in recent years. The higher professional education, especially technical and medical education, is being provided mainly through private institutions. The current national policy supported by several judicial pronouncements is against commercialization of higher education, rather, the policy encourages private 'not-for-profit' participation with surplus revenues to be ploughed back for growth and development of institutions.

It is a matter of public concern that technical educational institutions, medical educational institutions and universities should not resort to unfair practices such as charging exorbitant fee, etc.

It is, therefore, proposed to bring a legislation to regulate the fee charged by technical educational institutions, medical educational institutions and universities. The Bill *inter alia* provides for—

(a) setting up of a council to be known as the National Council for Educational Cost and Prices for tendering advice to the Central Government on matters relating to fixation of fee to be charged by various institutions for a particular course of study;

(b) prohibition on accepting fee in excess of the amount prescribed by the Central Government; and

(c) imposition of monetary penalty upto rupees fifty lakh on institutions charging fee more than the limit prescribed by the Central Government.

Hence this Bill.

NEW DELHI;
August 2, 2010.

P.T. THOMAS

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of a Council to be known as the National Council for Educational Cost and Prices. Clause 4 provides for appointment of Chairperson and other members of the Council by the Central Government. Clause 5 provides, *inter alia,* for salaries and allowances payable to the Chairperson and other members of the Council. Clause 6 provides for appointing officers and staff for functioning of the Council. Clause 11 provides for payment of sums to the Council by the Central Government. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees ten crore per annum will be involved.

No non-recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of detail only. Therefore, the delegation of legislative power is of a normal character.

BILL NO. 112 OF 2010

A Bill to provide for education and training in and creating awareness about post-polio syndrome and for matters connected therewith.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Post-Polio Syndrome (Education, Training and Awareness) Act, 2010.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires, "post-polio syndrome" means a medical condition where such symptoms of polio as progressive muscle and joint weakness, pain or muscle atrophy, breathing or swallowing problems, sleep related breathing disorders or general fatigue and exhaustion with minimal activity occur at a later stage in a person affected by polio.

Certain steps to be taken by Central Government in regard to post-polio syndrome.

3. On and from the date of commencement of this Act, the Central Government shall—

(*i*) provide education and training in the field of post-polio syndrome to health professionals;

(*ii*) create awareness in general public about post-polio syndrome;

(*iii*) make study of post-polio syndrome an integral part of the healthcare system and medical education in the country;

(*iv*) provide incentives to non-Governmental Organisations working in the field of post-polio syndrome; and

(*v*) take such other steps, as it may deem necessary, to provide adequate care and to promote the welfare of persons suffering from post-polio syndrome.

Medical colleges to impart teaching in post-polio syndrome.

4. It shall be compulsory for every medical college or institution to provide teaching and training in post-polio syndrome within a period of two years from the date of commencement of this Act.

Power to make rules.

5. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Post-Polio Syndrome (PPS) is a condition that affects polio survivors years after their recovery from an initial acute attack of the poliomyelitis virus. Post-Polio Syndrome is mainly characterized by new weakening in muscles that were previously affected by polio infection and also in muscles that were seemingly unaffected.

Post-Polio Syndrome is rarely life-threatening. However, untreated respiratory muscle weakness may result in life-threatening condition of the patients and weakness in swallowing muscles may result in aspiration pneumonia.

The severity of residual weakness and disability after acute poliomyelitis tends to predict the development of post-polio syndrome. Patients who had minimal symptoms from the original illness will most likely experience only mild post-polio syndrome symptoms. People originally hit hard by the polio virus and who attained a greater recovery may develop a more severe case of post-polio syndrom with a greater loss of muscle function and more severe fatigue.

Through years of studies, scientists at the National Institute of Neurological Disorders and Stroke and at other institutions have shown that the weakness of post-polio syndrome is a very slowly progressing condition marked by periods of stability followed by new declines in the ability to carry out usual daily activities.

At present, there is no effective pharmaceutical or specific treatment for the syndrome itself. Although there is no cure, there are recommended management strategies. Seeking medical advice from a physician experienced in treating neuromuscular disorders is one of them. Learning about post-polio syndrom is important for polio survivors and their families. Management of post-polio syndrome may involve changes in lifestyle. Support groups that encourage self-help, group participation and positive action can be helpful. Presently, no medical intervention has been found to stop the deterioration of surviving neurons.

Presently, there are eight million polio patients in India. But, unfortunately, society is largely ignorant about the onset of post-polio syndrome. Therefore, it is the responsibility of the Central Government to provide education, training and create awareness about the disease among the medical professionals and people particularly among persons suffering from post-polio syndrome in the country. With right kind of education and awareness, a large number of people can be saved from the sufferings of post-polio syndrome. Therefore, there is an urgent need to bring a legislative proposal on the subject to address this problem.

Hence this Bill.

NEW DELHI;
August 10, 2010.

BALKRISHNA KHANDERAO SHUKLA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall take steps to provide education and training in post-polio syndrome to health professionals, create awareness among general public and provide incentives to Non-Governmental Organisations working in the field of post-polio syndrome. Clause 4 provides for medical colleges to impart teaching in post-polio syndrome. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five crore will be involved.

An non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of the legislative power is of a normal character.

BILL NO. 113 OF 2010

A Bill further to amend the Constitution (Scheduled Castes) Order, 1950.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 2010.

Amendment of the Schedule.

2. In the Schedule to the Constitution (Scheduled Castes) Order, 1950, in Part VIII.— *Kerala,* for entry 46, the following entry shall be substituted, namely:— C.O 19

"46. Pulluvan".

STATEMENT OF OBJECTS AND REASONS

In pursuance of article 341 of the Constitution, the list of Scheduled Castes was first notified in 1950 and thereafter the list has been modified from time to time.

Pulluvan community of Kerala was initially included in the Constitution (Scheduled Castes) Order, 1950. However, in 1956 when the list of Scheduled Castes was revised by the Central Government, the 'Pulluvan' community was shown as 'Palluvan' due to printing mistake. This printing mistake in the nomenclature has deprived the persons belonging to this community of the benefits being enjoyed by the Scheduled Castes. As a matter of fact there is no community as Palluvan in Kerala. Therefore, the list should be corrected to spell the community correctly.

The representatives of this community have been making representations to the State Government as well as the Central Government in this regard, but so far, it has not been corrected.

In 1990, when the matter was taken to the Kerala High Court, Hon'ble High Court in its judgement held that the entry 'Palluvan' in the Scheduled Castes list of Kerala was a printing mistake and therefore, the Pulluvan community was entitled to all the benefits of Scheduled Castes.

In view of the aforesaid judgement, the Government of Kerala *vide* G.O. (P) No. 65/96/ SCSTDD dated 19.12.1996 granted all the benefits of Scheduled Castes to the Pulluvan community.

The Bill seeks to correct this mistake by substituting entry 46 'Palluvan' of the Constitution (Scheduled Castes) Order, 1950 in respect of the State of Kerala as 'Pulluvan'.

Hence this Bill.

NEW DELHI;
August 13, 2010.

P.T. THOMAS

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to substitute the entry "Palluvan" with the entry "Pulluvan", in the list of Constitution (Scheduled Castes) Order, 1950 in respect of the State of Kerala. The Bill, therefore, if enacted, would involve expenditure on account of benefits to be extended to the people belong to Pulluvan community under the continuing schemes and programmes of the Government meant for social, educational and economic development of the Scheduled Castes. It is estimated that a sum of approximately rupees twenty-five crore is likely to be involved as a recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

BILL NO. 114 OF 2010

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 2010.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new section 29AA.

2. In the Representation of the People Act, 1951, in Part IV A, after section 29A, the following section shall be inserted, namely:— 43 of 1951.

Conditions for recognition as National party.

"29AA. Notwithstanding anything contained in the Election Symbols (Reservation and Allotment) Order, 1968, a political party shall be treated as a recognized National party, if— S.O. 2959 dated the 31st August, 1968.

(*a*) the number of members belonging to the political party in the House of the People—

(*i*) is not less than ten per cent. of the total number of seats in the House of the People; and

(*ii*) have been elected from not less than one-fourth of the total number of States;

(*b*) at the last general election to the House of the People, the candidates set up by the political party secure not less than sixteen per cent. of total valid votes polled in one-fourth of the total number of States in the country; and

(*c*) at the last general election to the Legislative Assemblies, the candidates set up by the political party secure not less than sixteen per cent. of the total valid votes polled in one-fourth of the total number of States in the country.".

STATEMENT OF OBJECTS AND REASONS

At present, a political party is treated as a recognized National party if,—

(i) the candidates set up by it, in any four or more States, at the last general election to the House of the People, or to the Legislative Assembly of the State concerned, have secured not less than six per cent. of the total valid votes polled in their respective States; and

(ii) such political party has returned atleast four members to the House of the People at the aforesaid last general election for any State or States;

or

(i) its candidates have been elected to the House of the People, at the last general election to that House, from atleast two per cent. of the total number of Parliamentary constituencies, any fraction exceeding one-half being counted as one; and

(ii) the said candidates have been elected to that House from less than three States.

However, the security deposits of candidates contesting election to Legislative Assembly or House of the People get forfeited if they secure less than sixteen per cent. of the valid votes polled. So there is no rationale in recognizing any party which secures six per cent. of the total valid votes polled in elections to the Legislative Assemblies or the House of the People, as a National political party.

There is a need to change the conditions for recognition as a National political party. A registered political party in order to get recognition as a National political party must have atleast 54 members or members equal to ten per cent. of the total strength of the House of the People, elected from atleast one-fourth of the total number of States of the country. Further, the party must have secured at least sixteen per cent. of the total votes polled in elections to the Legislative Assemblies and the House of the People in one-fourth States of the country.

Therefore, to achieve the above objectives, it is proposed to amend the Representation of the People Act, 1951 in the interest of the nation.

Hence this Bill.

NEW DELHI;
August 17, 2010

J.P. AGARWAL

BILL NO. 115 OF 2010

A Bill to provide for social security to senior citizens and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first year of the Republic of India as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Provision of Social Security to Senior Citizens Act, 2010.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "senior citizen" means any person who has attained the age of sixty years; and

(d) "social security" means provision of food and healthcare, establishment of recreation centres and other amenities necessary for the welfare of senior citizens.

Social security to senior citizens by the appropriate Government.

3. It shall be the duty of the appropriate Government to provide social security to all senior citizens and to ensure their protection from exploitation and ill-treatment so as to ensure a peaceful life for them.

Payment of pension to senior citizens.

4. Every senior citizen who is unable to maintain himself from his own earnings or out of property owned by him, shall be paid monthly pension at such rate as may be prescribed by the appropriate Government.

Facilities to be provided to senior citizens.

5. The appropriate Government shall provide the following facilities to the senior citizens,—

***(a)* free medical and other healthcare facilities in all Government and private hospitals including reimbursement of amount spent on medicines;**

***(b)* interest free housing loan upto rupees one lakh;**

***(c)* subsidy upto ninety per cent. for amount spent on travel by road or by railways or by air; and**

***(d)* free legal assistance.**

Establishment of old age homes.

6. The appropriate Government may establish and maintain old age homes at accessible places in each district which shall have such facilities as may be prescribed for senior citizens.

Measures for publicity, awareness for welfare of senior citizens.

7. The appropriate Government shall take all measures to create awareness amongst public about rights of senior citizens and give wide publicity to the provisions of this Act by organizing seminars, symposia, lectures and conferences.

Central Government to provide funds.

8. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Act to have over-riding effect.

9. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act not in derogation of other laws.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with this Act.

Power to make rules.

11. *(1)* The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State legislature.

STATEMENT OF OBJECTS AND REASONS

Senior citizens are often neglected by the members of their own families. Their problems have increased to such an extent that in the year 1991, the General Assembly of the United Nations urged the Governments to formulate relevant policies in this regard. Hence, this is very much necessary to provide social security to the senior citizens. There should be provision for financial security, medical care and shelters for the senior citizens and they should be given protection against ill-treatment and exploitation.

Hence this Bill.

NEW DELHI;
August 17, 2010.

J.P. AGARWAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for social security to senior citizens. Clause 4 provides for the payment of pension to senior citizens who have no independent and adequate means of livelihood. Clause 5 provides that free medical and other healthcare facilities, interest-free housing loan, travel subsidy and free legal assistance may be provided to senior citizens. Clause 6 provides for establishment of old age homes for senior citizens. Clause 7 provides for measures for creating awareness among public about the rights of senior citizens. Clause 8 provides for payment of adequate funds to the States for carrying out the purposes of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India.

It cannot be estimated at this stage as to how many senior citizens will need assistance from the Central Government. However, an annual recurring expenditure of about rupees seven hundred crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of about rupees seven crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the appropriate Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of detail only. Therefore, the delegation of legislative power is of a normal character.

BILL NO. 116 OF 2010

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2010.

(*2*) It shall come into force on such date as the Central Government may, by notification in Official Gazeete, appoint.

Amendment of article 19.

2. In article 19 of the Constitution, in clause (4), after the words "in the interests of the", the words "secularism or" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Our republic, which had been established on the principles of democracy and secularism, is now facing serious challenges from the religious fundamentalists and sectarian forces. If these divisive forces are allowed to persist, it will be a threat to the very existence of the unified, liberal, democratic and pluralistic nation. It is, therefore, necessary that the Constitution be amended to enable the State to check the activities of the conservative and sectarian forces.

Therefore, the Bill seeks to amend article 19 of the Constitution so that the State, in the interest of secularism, can impose appropriate statutory restrictions on the fundamental right to form associations or unions.

Hence this Bill.

NEW DELHI;
August 17, 2010.

J.P. AGARWAL

BILL NO. 117 OF 2010

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 2010.

(*2*) It shall come into force at once.

Amendment of section 304A.

2. In section 304A of the Indian Penal Code, 1860 (hereinafter referred to as the principal Act), for the words "any rash or negligent act", the words "any rash or negligent act, except by any act of rash and negligent driving of motor vehicle," shall be substituted. 45 of 1860

3. After section 304B of the principal Act, the following new section shall be inserted, namely:— Insertion of new section 304C.

"304C. Whoever drives any motor vehicle, or rides, in any public place in a rash or negligent manner or dirves or rides the motor vehicle under the influence of liquor so as to endanger human life, and causes death by his rash and negligent act, shall be committing the offence of murder and shall be punished with death or imprisonment for life and shall also be liable to fine which shall not be less than fifty thousand rupees. Death due to rash and negligent driving.

Explanation: For the purpose of this section, the terms 'motor vehicle' and 'public place' shall have the same meanings as is assigned to them under the Motor Vehicles Act, 1988.". 59 of 1988.

STATEMENT OF OBJECTS AND REASONS

The mushrooming growth of our urban regions has resulted in rapid rise in the number of vehicles on the roads of our cities. With the growth in population, the public transport system which consists mainly of buses has also grown. The high growth rate of public vehicles as well as private vehicles has made roads very unsafe for pedestrians and other road users. The problem is compounded by the people indulging in rash and negligent driving under the influence of liquor. On the roads of cities such as Delhi, thousands of people die every year as a result of this. This menace has assumed worrying proportions particularly in the metropolitan cities. The incidents of violating traffic signals and instructions, road rage, drunken driving etc. are on the rise.

Though there is considerable anger in the public about the rising number of road accidents, there has been no response to this problem from the Government so far as to bringing legislation and empowering law enforcement agencies against persons responsible for road accidents is concerned. In the absence of any stringent legal framework, the persons responsible for rash and negligent driving are let off easily. Similar is the case with those indulging in drunken driving. Persons indulging in rash and negligent driving or drunken driving knowingly endanger the lives of fellow road users and therefore need to be treated harshly.

Section 304A of the Indian Penal Code is the only piece of legislation to deal with such kind of offenders. The provisions of this section were inserted in 1870 when there were no motor vehicles in the country. Transport was only through carriages-drawn either by bullocks or horses. Motor vehicles arrived in the country only during the first decade of twentieth century. At that time, private conveyance was the preserve of the Englishmen and the upper echelons of the society. This section was inserted with a view to protect the interests of the British and the ruling class who only had the means to own a vehicle that could cause an accident and hence, while protecting their own interest, ensured that causing injury or death due to accident by a motor vehicle remains not too serious an offence. That is why the offence was made bailable and that too with minimal punishment. But the situation has changed now. After the passage of one hundred and fifty years the need for changing the provisions with a view to make the provisions more stringent has grown stronger. The deaths caused by rash and negligent driving should be considered as murder within the meaning of section 300 and punished as such.

Hence this Bill.

NEW DELHI;
August 20, 2010.

ADHIR RANJAN CHOWDHURY

BILL NO. 119 OF 2010

A Bill to provide for not treating the attempt to commit suicide as a criminal offence and for matters connected therewith.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Treatment of Attempt to Suicide as a Non-Punishable Offence Act, 2010.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint but which shall not be later than three months from the date of assent.

Omission of section 309.

45 of 1860.

2. Section 309 of the Indian Penal Code, 1860 shall be omitted.

Counselling Centres.

3. The Central Government shall set up adequate number of counselling centres having such facilities and such number of qualified counsellors as may be prescribed, to provide counselling to the persons who attempt to commit suicide or have such tendencies.

Power to make rules.

4. *(1)* The Central Government may, by notification in the Official Gazette, make rules for carring out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

A person take the extreme step of committing suicide because of deep frustration when one develops the feeling of total isolation and helplessness and the society as a whole is unsympathetic to his or her needs and problems. It is a cumulative effect of psychological breakdown.

Extreme poverty, unemployment, family discord, destitution, loss of dear relations and frustration from failure in examinations, love affairs, etc. are some of the reasons behind persons committing suicide. We are also facing incidents of suicide of farmers and peasants because of the unprecedented crisis in the agricultural sector. The helplessness created by economic crises which has consequences that affects the social status of individuals as they are not able to fulfil their social or family commitments which lead to frustration and ultimately prompts them to commit suicide. It is a manifestation of a diseased condition of mind deserving treatment, care and understanding rather than punishment. Therefore, attempt to commit suicide should not be treated as a crime.

It is said that people who develop suicidal tendencies show signs of frustration and disappointment and they keep themselves aloof from the society and family. If these symptoms are noticed then proper counselling could be provided to such persons to help them to deal with their problems thereby preventing them from taking the extreme step of suicide.

Hence, the need is to create social awareness, and set up necessary institutions including counselling centres to provide help and counselling to such persons. It is rather unfortunate for a modern society like us to treat people trying to commit suicide as criminals. Even the Law Commission of India, in its 210th Report, have recommended that section 309 of the Indian Penal Code relating to the offence of attempted suicide be omitted as it considered the provision inhuman.

The Bill seeks to achieve the above objective.

NEW DELHI;
August 31, 2010.

ADHIR RANJAN CHOWDHURY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of necessary institutions including counselling centres by the Central Government to provide counselling to persons with suicidal tendencies. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees one hundred crore will be incurred per annum.

A non-recurring expenditure of about rupees five hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 125 OF 2010

A Bill to provide for welfare and rehabilitation of workers of closed textile mills and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Closed Textile Mills Workers (Welfare and Rehabilitation) Act, 2010.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Authority" means the Closed Textile Mills Workers Welfare and Rehabilitation Authority established under section 3;

(*b*) "prescribed" means prescribed by rules made under this Act; and

(*c*) "worker" means any person engaged by or working in a textile mill on the day of its closure.

Establishment of Closed Textile Mills Workers Welfare and Rehabilitation Authority.

3. (*1*) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an Authority to be known as the Closed Textile Mills Workers Welfare and Rehabilitation Authority.

(*2*) The Authority shall be a body corporate by the name aforesaid, having prepetual succession and common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall, by the said name, sue or be sued.

(*3*) The head office of the Authority shall be at Ahmedabad in the State of Gujarat.

Composition of Authority.

4. (*1*) The Authority shall consist of the following, namely:—

(*a*) a Chairperson, who shall be a person having knowledge of and professional experience in the textile sector, to be nominated by the Central Government;

(*b*) a Deputy-Chairperson, having such qualification, as may be prescribed, to be nominated by the Central Government;

(*c*) three members representing workers of closed textile mills;

(*d*) two members, other than workers, representing closed textile mills;

(*e*) five Members of Parliament, of whom four shall be from Lok Sabha and one from Rajya Sabha, to be nominated by the Presiding Officers of the respective Houses; and

(*f*) one member each representing the Union Ministries of Finance, Planning, Labour and Employment and Textiles.

(*2*) The Salary and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson and members of the Authority shall be such as may be prescribed.

(*3*) The Authority shall have a secretariat with such officers and members of staff with such terms and conditions of service as may be prescribed from time to time by the Central Government.

Authority to work in coordination with the State Governments.

5. (*1*) Subject to such guidelines as may be issued by the Central Government, the Authority shall work in coordination with the State Governments for overall welfare of workers and their families.

(*2*) Without prejudice to the generality of the foregoing provision, the Authority shall:—

(*a*) formulate welfare policies for the workers;

(*b*) provide all necessary assistance to the workers and their families for their rehabilitation;

(*c*) provide for education of the children of the workers and assist them in earning livelihood; and

(*d*) perform such other functions, as may be assigned to it by the Central Government, from time to time.

Closed Textile Mills Workers Welfare Fund.

6. (*1*) The Central Government shall, as soon as may be, but not later than one year of the commencement of this Act, by notification in the Official Gazette, establish a Fund to be known as the Closed Textile Mills Workers Welfare Fund with a corpus of rupees three hundred crore.

(*2*) The Central Government and the State Government shall contribute to the Fund in such ratio as may be prescribed.

(3) Such other sums as may be received by way of donation, contribution or assistance from individuals, organizations or otherwise shall also be credited to the Fund.

(4) The Fund shall be managed by the Authority in such manner as may be prescribed.

Utilisation of the Fund.

7. The expenses incurred on the welfare of the workers and their families shall be met out of the fund.

Annual Report

8. (1) The Authority shall prepare, in such form and manner, as may be prescribed, an annual report giving a true and full account of its activities during the previous year and submit it to the Central Government.

(2) The Central Government shall cause to be laid before each House of Parliament the reports submitted to it under sub-section (1).

Power of the Central Government to remove difficulties.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of the commencement of this Act.

Savings.

10. The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

Power to make rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The history of cotton textile industry in India has been a chequered one. There was a time when this industry had a place of pride in the national economy. In fact this industry flourished till 1980. Ahmedabad in the State of Gujarat was known as the Manchester of India because of its rich contributions to the textile industries. There were more than 125 textile mills in Ahmedabad. The mills in Ahmedabad and in other parts of western India were catering to the cotton grown throughout the country. In those days, the textile mill owners were pro-people and pro-workers. Lakhs of workers were employed in these textile mills in various departments. Majority of them were poor, backward, villagers and belonged to dalit communities. The textile mill industry was the main identity of Ahmedabad. It ensured job opportunities to all the workers and members of their families and hence enabled them to live with dignity.

Unfortunately, in the decade of eighties, particularly after 1985, the textile mill industry faced crisis and a number of mills were closed down due to several reasons. In due course, the closure also affected many reputed textile mills throughout the country. Hence, a large number of textile mills workers became unemployed. Their families faced lot of difficulties due to their joblessness. Their living standard also deteriorated. A few half hearted attempts were made to help them but unfortunately they are still living in poverty and jobless condition.

The most shocking factor in this crisis was that the majority of mill owners sold their land where mills were situated thus earning hefty amount. But they took virtually no step to ensure that at least part of the money is given to the workers, as majority of whom were neck deep in debt and living below the poverty line in inhuman conditions. In view of the miserable conditions of these workers, it is the duty of the Government to take immediate remedial measures. The Bill, therefore, seeks to establish an Authority to be known as the Closed Textile Mills Workers Welfare and Rehabilitation Authority to provide social security and other financial assistance to such workers. In this way, it is hoped, that the workers of closed textile mills of Ahmedabad and other parts of the country will be saved from starvation, frustration, unemployment and misery in their life.

Hence this Bill.

NEW DELHI;
October 20, 2010.

KIRIT PREMJIBHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a Closed Textile Mills Workers Welfare and Rehabilitation Authority. Clause 4 provides for composition of the Authority and the salary and allowances to Chairperson, Deputy Chairperson and other members of the Authority. Clause 6 provides for setting up of a Fund to be known as the Closed Textile Mills Workers Welfare Fund for the welfare of workers of the closed textile mills. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one thousand crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 133 OF 2010

A Bill to provide for protection and welfare of banana growers, payment of remunerative price to them and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Banana Growers (Protection and Welfare) Act, 2010.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Authority" means Banana Export and Processing Development Authority established under section 8;

(*b*) "banana grower" means any person who cultivates banana;

(*c*) "Fund" means the Banana Growers Protection Fund constituted under section 6; and

(*d*) "prescribed" means prescribed by rules made under this Act.

Procurement of banana and fixation of remunerative price.

3. (*1*) It shall be the duty of the Central Government to procure the banana crop produced in the country through such agency, as it may deem fit.

(*2*) The Central Government shall fix remunerative price of banana every year after taking into consideration—

(*i*) the increase in the price of pesticides, fertilizers and other inputs;

(*ii*) total investment of the banana growers; and

(*iii*) such other factors as may be prescribed.

Export of surplus banana.

4. The Central Government shall take all necessary steps to export the surplus banana produced during a year in the country.

Compulsory insurance.

5. The entire banana crop produced by the banana growers shall be compulsorily insured free of cost by the Central Government against natural calamities, fall in the yield of banana, fall in the prices of banana and such other eventualities as may be prescribed.

Banana Growers Protection Fund.

6. (*1*) The Central Government shall set up a Fund to be known as the Banana Growers Protection Fund with a view to safeguard the interests of the banana growers.

(*2*) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

Utilization of the Fund.

7. The Banana Growers Protection Fund shall be used for the following purposes, namely:—

(*a*) to provide financial assistance to banana growers—

(*i*) for purchasing fine quality seeds, pesticides and fertilizers; and

(*ii*) in case of low yields of bananas or loss of their crops due to rains, storms, floods, hailstorms and drought;

(*b*) to provide compensation in the event of death or accident of banana growers or labourers engaged in the production of bananas and other related work;

(*c*) to pay life insurance premium on behalf of the banana growers;

(*d*) to provide free health facilities to banana growers and their families; and

(*e*) such other purposes as may be prescribed by the Central Government.

Banana Export and Processing Development Authority.

8. (*1*) The Central Government shall, by notification, establish an Authority to be known as the Banana Export and Processing Development Authority for promoting the export and processing of banana.

(*2*) The head office of the Authority shall be at Jalgaon in the State of Maharashtra.

(*3*) The Banana Export and Processing Development Authority shall consist of the following:—

(*i*) a Chairperson, who shall be a person having knowledge and not less than fifteen years of experience in the agricultural sector, to be appointed by the Central Government;

(*ii*) two members, who shall be persons having not less than fifteen years experience of research in banana processing industry, to be appointed by the Central Government.

(4) The Chairperson and the members of the Authority shall be appointed for a period of three years or till they attain the age of sixty-five years, whichever is earlier.

(5) The salary and allowances payable to, and other terms and conditions of the service of Chairperson and the members of the Authority shall be such as may be prescribed by the Central Government.

(6) The Central Government shall provide to the Authority such officers and staff as it deems necessary for the efficient functioning of the Authority.

Functions of the Authority.

9. The Authority shall perform the following functions:—

(a) disseminate information among banana growers about reasonably priced seeds, fertilizers and pesticides needed for growing bananas;

(b) recommend to the Central Government the building of cold storages at strategic places for the storage of bananas;

(c) provide financial assistance to banana growers for availing cold storage facility;

(d) aid and encourage research in banana processing industry and set up research institutes in this regard;

(e) recommend to the Central Government the measures for increasing banana export and for revitalizing banana processing industry.

Power to remove difficulty.

10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

Act not to be in derogation of other laws.

11. The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

Power to make rules.

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Banana is a commercial crop. It is cultivated in many States of the country. The banana growers are facing problems as they are not getting remunerative price of their produce. To grow their crop, they are forced to take loans. The banana growers are in distress as the prices of banana crops are not increasing in proportion to those of seeds, fertilizers and pesticides.

As banana is a highly perishable crop, the banana growers have to sell their produce within a short period. They do not have the technology to preserve the bananas for a long duration. In the absence of any cold storage facility, the banana growers are forced to sell off their produce at a throw-away prices. The banana growers have to resort to distress sale as there is no institutional mechanism on the part of the Government to ensure that banana growers get remunerative price of their produce. As a result, the banana growers are getting trapped in debt. By encouraging banana processing industry, avenues of employment generation can be ensured along with the prosperity of the banana growers.

Government should provide remunerative price and also prompt relief to banana growers in the event of natural calamities like storm, heavy rains, hailstorm and floods so that banana growers can prosper. Setting up of a fund for banana growers and provision of insurance scheme for them will certainly prove beneficial to them. Therefore, there is an urgent need to enact a law which ensures Government assistance for the protection and welfare of the banana growers in the country.

Hence this Bill.

NEW DELHI;
October 21, 2010.

A.T. NANA PATIL

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for compulsory insurance of banana crop. Clause 6 provides for the setting up of Banana Growers Protection Fund. Clause 8 provides for the setting up of a Banana Export and Processing Development Authority. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring annual expenditure of rupees five hundred crore.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 137 OF 2010

A Bill to provide for the setting up of a National Flood Control and Rehabilitation Authority to suggest measures to prevent and control floods, provide relief to people affected by floods and for matters connected therewith.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the National Flood Control and Rehabilitation Authority Act, 2010.

(2) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Authority" means the National Flood Control and Rehabilitation Authority established under section 3; and

(c) "prescribed" means prescribed by rules made under this Act.

Establishment of National Flood Control and Rehabilitation Authority.

3. *(1)* **The Central Government shall, by notification in the Official Gazette, establish an Authority to be called the National Flood Control and Rehabilitation Authority.**

(2) **The head office of the Authority shall be at Mumbai in the State of Maharashtra.**

Composition of the Authority.

4. *(1)* **The Authority shall consist of:—**

(i) **a Chairperson, who shall be an expert in the field of flood control, to be appointed by the Central Government; and**

(ii) **one member representing each State and Union territory, who shall be experts on flood control measures and relief management, to be nominated by the Central Government in such manner as may be prescribed.**

(2) **The salary and allowances payable to and other terms and conditions of service of the Chairperson and members of the Authority shall be such as may be prescribed.**

(3) **The Central Government shall make available to the Authority such number of officers and staff as may be required for efficient functioning of the Authority.**

Functions of the Authority.

5. The Authority shall perform the following functions:—

(a) identify areas which are prone to floods;

(*b*) suggest and recommend to the Central Government measures to prevent and control floods and rehabilitation of flood victims;

(*c*) frame a time-bound plan for inter-linking of rivers which are prone to floods with the ones which are not so;

(*d*) suggest measures for the development of land in areas which are prone to floods;

(*e*) install flood forecasting system in flood prone areas;

(*f*) advise State Governments on rehabilitation measures during floods;

(*g*) advise State Governments on proper storage of rainwater and construction of dams to prevent floods; and

(*h*) give direction to the District Committee set up under section 8 in regard to assistance to be provided to the persons affected by flood.

Cost to be borne by Central and State Governments.

6. The expenditure incurred on implementation of flood control and other measures suggested by the Authority shall be borne by the Central Government and the State Governments in such ratio, as may be prescribed.

Central Government to implement the recommendations of the Authority.

7. It shall be the duty of the Central Government to implement the recommendations of the Authority:

Provided that where any recommendation of the Authority cannot be implemented due to financial or any other reason, the Central Government shall inform the Authority accordingly.

District Committee.

8. *(1)* **The appropriate Government shall set up a Committee in each district to be known as the District Committee under the Chairmanship of the District Collector/District Magistrate/Deputy Commissioner.**

(*2*) **The District Committee shall consist of five members to be nominated by the appropriate Government.**

(*3*) The District Committee shall function under the guidance and supervision of the Authority.

(*4*) The District Committee shall provide financial assistance, shelter and other facilities to the people affected by floods within a period of fifteen days from date of occurrence of flood in its jurisdiction.

(*5*) If the District Committee does not deliver assistance to the persons affected by the flood within fifteen days of the occurrence of the flood, the District Committee shall be subject to such action as may be determined by the Authority.

Annual Report.

9. (*1*) The Authority shall prepare, in such form and manner, as may be prescribed, an annual report giving a true and full account of its activities during the previous year and submit it to the Central Government.

(*2*) The Central Government shall cause to be laid before each House of Parliament the reports submitted to it under sub-section (*1*).

Power to make rules.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Floods are a frequent occurrence across the country and result in widespread loss of life and property. The Government is under constant pressure to manage the natural calamities and to undertake relief measures. Every time it is observed that there is delay in providing relief to the persons affected by floods due to lack of coordination among various relief providing agencies.

There are a number of perennially flowing rivers in the country and enormous amount of water of these rivers flows into the sea. This wastage of water should be prevented and utilised by diverting water from water surplus to water deficit areas. On the other hand, our ground water level is also rapidly declining. Thus, if there is no proper planning and mechanism to harvest water, the country will face water crisis in future.

It is the need of the hour to formulate a national policy for water harvesting, creating public awareness and preservation of water and adopting a scientific approach for the control of floods and related natural calamities.

Hence, this Bill seeks to provide for the setting up of an authority to suggest measures to the Government to prevent and control floods and to provide relief to flood affected people in a time-bound manner.

NEW DELHI;
October 22, 2010.

A.T. NANA PATIL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a National Flood Control and Rehabilitation Authority. Clause 4 provides for payment of salary and allowances to the members of the Authority. Clause 6 provides that the expenditure incurred on implementation of flood control measures suggested by the Authority shall be borne by the Central Government and State Governments. Clause 8 provides for setting up of District Committees to provide financial assistance, shelter and other facilities to the victims of the floods. While the expenditure relating to District Committees in the States shall be met out of the Consolidated Funds of the respective States, the expenditure relating to District Committees under the Union Territory Administration shall be met out of the Consolidated Fund of India. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five thousand crore per annum.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to frame rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 126 OF 2010

A Bill to provide for the welfare and protection of interests of coffee growers.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Coffee Growers Welfare Act, 2010. Short title and commencement.

(*2*) It shall come into force at once.

2. In this Act, unless the context otherwise requires,— Definitions.

(*i*) "coffee" includes coffee seeds of all qualities;

(*ii*) "coffee grower" means any coffee grower irrespective of the size of the land held by him which is used for growing coffee; and

(*iii*) "prescribed" means prescribed by rules made under this Act.

Setting up of the Coffee Growers Welfare Authority.

3. (*1*) **As soon as may be, after the commencement of this Act, the Central Government shall set up an Authority to be known as the "Coffee Growers Welfare Authority".**

(*2*) **The Authority shall consist of:—**

(*i*) **a Chairperson, who shall be the representative of the coffee growers, to be nominated by the Central Government;**

(*ii*) **one representative of the Union Ministry of Commerce and Industry; and**

(*iii*) **one member each from the coffee growing States who shall be nominated by the respective State Government.**

Insurance of coffee crop.

4. (*1*) All coffee crop shall be compulsorily insured against natural calamities.

(*2*) Every coffee grower shall be required to pay premium for insurance of his coffee crop in accordance with the area of land on which coffee is grown by him.

Assessment of loss, etc.

5. (*1*) Whenever any coffee growing area is affected by any natural calamity, the Central Government shall at the earliest available opportunity, depute a team of experts to assess the loss suffered by the coffee growers in that area.

(*2*) The team of experts deputed by the Central Government shall submit a report to the Central Government about the losses suffered by the coffee growers in the area within a period of one week.

(*3*) On receipt of the report under sub-section (*2*), the Central Government shall instruct the insurance company to pay compensation to the coffee growers.

Appeal to the Authority regarding compensation.

6. (*1*) If any coffee grower is not satisfied with the compensation amount given by the insurance company, he shall file an appeal before the Authority.

(*2*) The Authority shall hear both the sides and give its decision within a period of one week of the filing of the appeal.

(*3*) The decision of the Authority shall be binding on both the parties.

Functions of the Authority.

7. The Authority shall—

(*i*) formulate a coffee policy and shall review it at least once in every three years;

(*ii*) recommend to the Government the amount of premium payable by the coffee growers;

(*iii*) recommend to the Government to provide such benefits to the coffee growers as may be deemed fit;

(*iv*) recommend to the Government the minimum support price for coffee;

(*v*) recommend to the Government regarding any other matter relating to coffee industry; and

(*vi*) recommend to the Government regarding measures to be taken in case of fall in the price of coffee in the international market.

Minimum support price for coffee.

8. (*1*) The Central Government shall, by order published in the Official Gazette, fix the minimum support price for different types and grades of coffee and such fixation shall be notified well in advance before the commencement of harvest of coffee for every season.

(*2*) While fixing the minimum support price under sub-section (*1*), the Central Government shall take into consideration the cost of production, return on capital and sustenance of the average or small coffee growers in the coffee sector.

(*3*) The Central Government shall procure at the minimum support price fixed under sub-section (*1*), excess quantity of coffee grown by and from the coffee growers through Indian Coffee Board or any other agency constituted for the purpose.

Punishment for buying of coffee at lesser price than minimum support price.

9. (*1*) If any person buys coffee at a price which is less than the minimum support price so notified under sub-section (*1*) of section 8, he shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

(*2*) Where an offence has been committed under sub-section (*1*) by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Assistance to coffee growers.

10. (*1*) The Central Government shall assist the coffee growers in exporting the coffee grown in excess of the domestic demand.

(*2*) The Central Government shall take such steps as may be recommended by the Authority to protest the coffee growers in case of fall in price of coffee in the international market.

Power to make rules.

11. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Coffee is one of the important commercial crops. It is exported in huge quantities and make a significant contribution to the country's economy. The coffee growers are spread mainly in three southern States, namely, Karnataka, Kerala and Tamil Nadu who are accountable for ninety per cent. of coffee produced in the country. There are lakhs of workers and their families who are depending, directly or indirectly, on coffee cultivation. The coffee growers are facing a lot of problems and have been organizing protests from time to time to attract attention of the Government to their plight. In case of loss of coffee crop due to natural calamity or otherwise, no adequate compensation is given to them. No protection is available to coffee growers in case of fluctuation in prices of coffee products in international coffee market. Coffee growers have no role in formulation of coffee policy or rather any matter relating to coffee industry. In such a situation, there has to be minimum protection for the coffee growers. At present, there is no separate Authority to look after the welfare of coffee growers. It is, therefore, proposed to set up a Coffee Growers Welfare Authority to protect and promote the interests of coffee growers.

NEW DELHI; ADHIR RANJAN CHOWDHURY

October 22, 2010.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for setting up of a Coffee Growers Welfare Authority. It will involve expenditure in respect of allowances to be paid to the Chairperson and other members of the Authority. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees five lakh may be incurred per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 145 OF 2010

A Bill to provide for the eradication of unemployment amongst youth belonging to the Scheduled Castes and the Scheduled Tribes by ensuring right to gainful employment and payment of unemployment allowance to the unemployed amongst them and for matters connected therewith.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Eradication of Unemployment amongst the Youth Belonging to the Scheduled Castes and the Scheduled Tribes Act, 2010.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "Fund" means the National Scheduled Castes and Scheduled Tribes Youth Unemployment Assistance Fund established under section 7;

(*c*) "prescribed" means prescribed by rules made under this Act; and

(*d*) "unemployed youth" means a person above the age of eighteen years belonging to the Scheduled Caste or the Scheduled Tribe not engaged in any gainful employment.

Right to gainful employment.

3. Notwithstanding anything contained in any other law for the time being in force, every unemployed youth shall have the right to gainful employment.

Appropriate Government to provide employment to every unemployed youth.

4. (*1*) The appropriate Government shall provide gainful employment to every unemployed youth according to his age, educational qualifications and physical capabilities.

(2) **Where an unemployed youth is not provided with employment or self-employment opportunities under any scheme by the Government, he shall be given such monthly unemployment allowance, being not less than rupees two thousand per month, in such manner as may be prescribed, till the time he is provided with gainful employment:**

Provided that the unemployment allowance shall not be paid to the unemployed youth, if—

(*i*) his income from any source is equal to the amount of unemployment allowance fixed under this Act; and

(*ii*) he is provided unemployment allowance under any scheme by the State Government or Union territory Administration, as the case may be:

Provided further that if the income from any source of the unemployed youth is less than the amount of unemployment allowance, the difference between his amount of income and the amount of unemployment allowance may be provided to him.

Filling up of vacant posts.

5. The appropriate Government shall take immediate steps to fill up vacant posts reserved for the candidates belonging to the Scheduled Castes and the Scheduled Tribes in the Government establishments, Public Sector Undertakings and other such Organisations in a time-bound manner.

Generation of employment opportunities.

6. The appropriate Government shall take steps to generate employment opportunities in public and private sector enterprises or undertakings, small scale industries, cottage and village industries, khadi and weaving industries, agriculture and food processing industries, information technology industries and other self-employment opportunities.

National Scheduled Castes and Scheduled Tribes Youth Employment Assistance Fund.

7. (*1*) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish a National Scheduled Castes and the Scheduled Tribes Youth Employment Assistance Fund with an initial corpus of rupees fifty thousand crore and thereafter shall contribute to the fund from time to time alongwith the State Governments in such ratio as may be prescribed.

(*2*) Such other sums as may be received from individuals, corporate sector, financial institutions and firms by way of donation or otherwise shall also be credited to the Fund.

(*3*) The Fund shall be utilized for payment of unemployment allowance to the unemployed youth.

Act to have over-riding effect.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act not in derogation of any other law.

9. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(*2*) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our country is the second most populous country in the world. The population explosion has given rise to unprecedented unemployment problem in the country. According to an estimate, there are more than five crore unemployed youth registered in the employment exchanges of the country, while the number of unregistered unemployed youths is more than the registered ones. Such youth are mostly in remote, rural and semi-urban areas and their number is increasing by the day. The situation of unemployment in the country is so grim that even highly qualified youth have failed to get employment. Millions who graduate every year, especially the youth belonging to the Scheduled Castes and the Scheduled Tribes are unemployed in spite of getting reservation benefits. Even after sixty-three years of independence, millions of youths belonging to Scheduled Castes and Scheduled Tribes are unemployed due to ineffective recruitment policy. This is leading to frustration amongst the Scheduled Castes and Scheduled Tribes youth and they are being easily lured away by anti-social and anti-national forces to further their nefarious and destructive activities in various parts of the country. In fact, many of them get involved in criminal activities and spoil their lives. Unemployment is also the reason for brain-drain and exodus of substantial number of skilled and unskilled youth, doctors, engineers and scientists from the country. At the same time opportunities of employment are shrinking and the Central Government is also partially responsible for this. For instance, the ministries or departments of the Central Government have to surrender ten per cent. of the total vacancies arising due to superannuation of employees every year. Further, if any post remains vacant for over a year, it automatically lapses.

The Agricultural sector has remained the largest employer in our country but due to vagaries of nature and non-remunerative pricing policy, employment in this sector has become less attractive. Same is the situation in the sector of small scale and village industries. Modernisation and use of new technologies in industries is also reducing employment opportunities.

Our Constitution confers on every citizen the right to life but this right remains only on paper in the absence of decent and meaningful source of living. The Supreme Court has also stressed the need for necessary means and employment to enjoy the right to life enshrined in the Constitution. India is a welfare State and as such the onus is on the State to ensure the welfare of the Scheduled Caste and the Scheduled Tribe youth by providing gainful employment opportunities to them. If the State fails to provide them gainful employment then they should be paid unemployment allowance on a monthly basis. This is the need of the hour which will go a long way in ensuring a dignified life to the youth belonging to the Scheduled Castes and the Scheduled Tribes.

NEW DELHI;
November 1, 2010.

KIRIT PREMJIBHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every unemployed youth shall have the right to gainful employment. Clause 4 provides that the appropriate Government shall provide gainful employment to every unemployed youth belonging to the Scheduled Castes and the Scheduled Tribes according to one's age, qualification and capability. It also provides for unemployment allowance to every unemployed youth till they are provided with gainful employment. Clause 7 of the Bill provides for the establishment of the National Scheduled Caste and Scheduled Tribe Youth Unemployment Assistance Fund with an initial corpus of rupees fifty thousand crore to be provided by the Central Government.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At this stage, it is difficult to give an exact estimate of the expenditure likely to be involved. However, it is estimated that an annual recurring expenditure of about rupees sixty thousand crore is likely to be involved from the Consolidated Fund of India, in addition to the rupees fifty thousand crore as initial corpus.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. The rules will relate to matters of detail only.

The delegation of legislative power is, therefore, of a normal character.

BILL NO. 140 OF 2010

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2010.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new Part IIIA.

2. After Part III of the Constitution, the following Part shall be inserted, namely:—

"Part IIIA

INCULCATING IDEALS ENSHRINED IN THE CONSTITUTION IN CITIZENS

Oath or affirmation by citizens.

35A. Every citizen, who has completed the age of eighteen years or upon completing the age of eighteen years, shall make and subscribe an oath or affirmation according to the form set out for the purpose in the Third Schedule, before such person and in such manner as the State may, by law, determine.

Explanation —In this article, citizen includes a person who has acquired the Indian citizenship by registration or naturalization under the Citizenship Act, 1955. 57 fo 1955.

Compulsory teaching of Constitution to children.

35B. The State shall take steps to ensure that the ideals, principles and provisions of this Constitution are taught to all children from the age of six till eighteen years in such manner as the State may, by law, determine.".

3. In the Third Schedule to the Constitution, after Form VIII, the following Form shall be inserted, namely:— Amendment of the Third Schedule.

"IX

Form of oath or affirmation to be made by citizens of India:—

"I,A. B., do swear in the name of God that I will bear true faith and allegiance to the
solemnly affirm
Constitution of India as by law established; that I will uphold and respect the Constitution of India and shall endeavour to further the ideals, principles and provisions contained therein; that I will commit myself to the idea of a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC of India; that I will strive to secure, by Constitutional means, to all my fellow citizens Justice—social, economic and political, Liberty of thought, expression, belief, faith and worship, Equality of status and of opportunity, and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the nation; and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.".

STATEMENT OF OBJECTS AND REASONS

The Indian Constitution is not a mere parchment of paper; it is a way of life. Unfortunately, the study of the Constitution and its provisions is largely limited to practitioners of law and academicians. The common man's interaction with constitutional ideals is restricted to a very basic study of civics and political science if at all they opt to do so. It is necessary that for a sensitive and conscious citizenry to emerge in India, the Constitutional principles, ideals and provisions must become a national habit. For this purpose, it is proposed to suitably amend the Constitution by inserting Part IIIA, namely, 'Inculcating Ideals enshrined in the Constitution in citizens'.

The Constitution is the very thread of our Indianness, which weaves diversity into the fabric of nationhood, exhorting us, to cast away the blinkers of parochial cravings for the larger interests of "We, the People". Its provisions lay down the duties and obligations of citizens toward one another and towards the larger idea of India. Until now, only members of the Union and State legislature, executive, judiciary and those who occupy or seek to occupy public office are required to take oath of allegiance or affirmation to the Indian Constitution. But the truth is that in the light of various constitutional provisions and the higher moral precept of 'Nation First', a duty of fidelity is levied on every citizen of India. In order to recognize and realize this, it is proposed to amend the Constitution by inserting articles 35A and 35B which shall require every citizen of India, having completed the age of eighteen years, to take an oath of allegiance or affirmation to the Indian Constitution in the form proposed to be made to the Third Schedule to the Constitution by inclusion of Form IX.

On the one hand, the Constitution lays emphasis on the creation of a social order characterized by the ancient slogan of *'Bahujan Hitaya, Bahujan Sukhaya'* or the Welfare State ideal of 'achieving the greatest good for the greatest number'. Yet, in the same breath, it serves as a sacrosanct contract that the Indian State has entered into with every citizen of India, committing itself eternally to the Rule of Law, free and fair democratic traditions, secularism and Fundamental Rights enunciated in Part III of the Constitution. It is the very touchstone of justice, fairness and reasonableness, to be employed for testing every action of the State, in order to protect every individual from the excesses and abuse of governmental power. But the mere presence of words in a document alone will serve as no guarantee against tyranny. As it has been rightly stated, 'Eternal vigilance is the price of Liberty'. To achieve this, it is proposed to amend the Constitution to make its study compulsory for all children between the ages of six to eighteen by insertion of article 35B, so that we may create a citizenry, which is as wedded to the idea of freedom, justice, democracy and multi culture pluralism as the founding fathers had, while laying down their lives in the struggle for liberation.

The Bill seeks to achieve the above objects.

NEW DELHI;
November 1, 2010.

MANISH TEWARI

BILL NO. 5 OF 2010

A Bill further to amend the Food Safety and Standards Act, 2006.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Food Safety and Standards (Amendment) Act, 2011.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new section 19A.

34 of 2006.

2. After section 19 of the Food Safety and Standards Act, 2006, the following section shall be inserted, namely:—

Grading and marking for ripening.

"19A. No person shall sell or offer for sale any fruit or vegetable unless it has been graded and marked for ripening by food laboratory according to such standards and in such manner as may be specified by the Food Authority.".

STATEMENT OF OBJECTS AND REASONS

The issue of artificial ripening of fruits and vegetables especially mangoes and banana has been raised from time to time in various parts of the country. Usually farmers harvest fruits prior to maturity with a view to get premium price or to transport them to remote destinations where they are ripened before retailing with aids like calcium carbide, ethylene gas and ethrel/ethephon. The use of ethylene gas either directly from cylinders or as liberated from ethephon, is recognized as a safe alternative for ripening of fruits by scientific research provided it is used at low concentration.

As per the traditional practice, the use of calcium carbide commonly known as *ripening masala* is very popular. Calcium carbide is a carcinogenic substance and can cause mouth ulcer, food poisoning or even cancer. Hence, it is dangerous for human life.

Therefore, the Bill seeks to provide for a legal mechanism of grading of ripened fruits and vegetables before they are offered for sale. Such a mechanism will ensure that artificial ripening of fruits and vegetables has been carried out using safe chemicals.

NEW DELHI;
November 24, 2010.

HARIBHAU JAWALE

BILL NO.1 OF 2011

A Bill to provide for prohibition on religious conversions by inducement or by force and for matters connected therewith.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Prohibition on Religious Conversion Act, 2011.

(*2*) It extends to the whole of India.

Prohibition on religious conversion.

2. No person or institution shall encourage or cause to encourage any person or group of persons to convert religion by inducement or by force.

Explanation:—For the purposes of this section, "inducement" includes giving or offering or promising to give cash, imparting free education or giving employment, shelter, food or clothes free of cost.

Act not to apply in case of voluntary conversion.

3. This Act shall not apply to a person who voluntarily converts to another religion or reconverts to his original religion.

Punishment.

4. (*1*) Whoever violates the provisions of this Act shall be punished with rigorous imprisonment for a term which shall not be less than ten years and a fine which shall not be less than rupees one lakh.

(*2*) If any institution or organisation violates the provisions of this Act, the person in charge of the affairs of the organisation or institution, as the case may be, by whatever name called, shall be subject to punishment as provided under sub-section (*1*) and the registration of that organisation or institution under any law for the time being in force shall be cancelled forthwith.

Prohibition on accepting donation or contribution.

5. Notwithstanding anything contained in any other law for the time being in force, no person or organisation violating the provisions of this Act shall be allowed to accept any donation or contribution of any kind from within the country or abroad.

Power to make rules.

6. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Religious conversion is the order of the day. Inducement of all types is offered and sometimes promise to offer certain things is given. Certain organisations indulge themselves in encouraging conversion through all ways and means and funds received from abroad and within the country are put to use for these purposes.

In many parts of the country, it has been witnessed that conversion has been taking place through force. Forced or induced conversion should be stopped. It is, therefore, proposed in the Bill to prohibit conversion through force or inducement. However, a provision has been made for enabling voluntary conversion.

The Bill seeks to achieve the above objectives.

NEW DELHI;
December 8, 2010.

BIJOYA CHAKRAVARTY

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 3 OF 2011

A Bill to provide for regulation of recruitment in public employment and for matters connected therewith.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Public Employment (Recruitment) Act, 2011.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,— Definitions.

(*a*) "appropriate Government" means—

(*1*) in relation to—

(*a*) any establishment of railways, major port, mine or oil-field, or

(*b*) any establishment owned, controlled or managed by—

(*i*) the Central Government or a department of the Central Government,

(*ii*) a corporation (including a co-operative society), established by or under a Central Act, which is owned, controlled or managed by the Central Government,

the Central Government; and

(*2*) in relation to any other public sector establishment, the Government of the State in which that other establishment is situated;

(*b*) "employee" means any person who is employed in any public sector establishment to do any work for remuneration;

(*c*) "employer" means any person who employs one or more persons to do any work in public sector establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;

(*d*) "employment exchange" means any office or place established and maintained by the appropriate Government for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting—

(*i*) persons who seek to engage employees,

(*ii*) persons who seek employment, and

(*iii*) vacancies to which persons seeking employment may be appointed;

(*e*) "establishment" means—

(*a*) any office, or

(*b*) any place where any industry, trade, business or occupation is carried on;

(*f*) "establishment in public sector" means an establishment owned, controlled or managed by—

(*1*) the appropriate Government or a department of the appropriate Government;

(*2*) a Government company as defined in section 617 of the Companies Act, 1956;

(*3*) a corporation (including a co-operative society), established by or under a Central or State Act, which is owned, controlled or managed by the Government; and

(*4*) a local authority;

(*g*) "Group C post" means a post involving clerical, typing or such other work but does not include a post involving supervisory work;

(*h*) "prescribed" means prescribed by rules made under this Act.

Notification and publication of vacancies.

3. It shall be mandatory for the employer of an establishment in public sector to—

(*a*) notify to such employment exchanges, as may be prescribed, about the vacancies proposed to be filled up before filling up any vacancy in that establishment;

(*b*) publish in the newspapers having wider circulation, display on their office notice boards, announce on radio and television network through employment news bulletins and publish in the vernacular language newspapers of the area where the establishment is situated or the vacancy has arisen about the vacancies in that department and their full details.

Forwarding of names of eligible candidates by employment exchange to the employer.

4. It shall be the duty of every employment exchange to which a vacancy has been notified by any employer to forward the names of candidates in accordance with their eligibility and reservation policy for the time being in force to the employer of that department.

Consideration of all applications received through employment exchange.

5. The employer of every establishment in public sector who has notified vacancies shall consider all applications received through employment exchanges and direct from candidates before filling up vacancies in that establishment.

Regional language to be made compulsory for Group C posts.

6. Notwithstanding anything contained in any other law, order, rule, notification, bye-law, regulation, instruction, judgement of any court of law or tribunal or any quasi-judicial authority or any authority having judicial powers to the contrary for filling up a Group C post, the knowledge of regional language of the State or area where the establishment is situated or where the vacancy has arisen shall be a compulsory and pre-requisite qualification for deciding the eligibility of candidates for filling up any Group C post in that establishment.

Act not to apply in case of promotion or absorption of surplus staff.

7. Unless the Central Government otherwise directs by notification in the Official Gazette in this behalf, this Act shall not apply in relation to vacancies which are proposed to be filled up through promotion or by absorption of surplus staff of any branch or department of the same establishment.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

It has been observed that there is no proper and uniform recruitment policy in Government bodies. Only a strong and clear cut policy will pave the way for appointment of efficient staff in Government undertakings. It has been seen that many Government departments advertise their vacancies only in national dailies or in employment news. As a result only a few people have access to information regarding the vacancy position in a particular department. In fact, there is a mandatory provision that whenever a vacancy arises, employment exchanges should be notified about it, who in turn will forward details of eligible candidates to the department. This procedure is not followed properly and as a result even unsuitable candidates get selected in the process.

The Supreme Court in a case has observed that all vacancies arising in a Government department should be given wide publicity in newspapers including regional newspapers, employment news, employment news bulletins in radio and television network so that maximum number of candidates can apply. However, many of the departments taking advantage of the instructions given by the Government of India regarding the administrative and budgetary convenience, publish the vacancies in Employment News only. The vacancies are not published in regional languages and as a result people living in backward and far-flung areas are not aware of the advertisements and as such are not in a position to apply for the same.

Therefore, through this Bill it is proposed to make it compulsory that all vacancies must be notified not only to employment exchanges, employment news, but also published in regional newspapers in addition to national and other dailies. In this connection it may not be out of place to mention that a note on recruitment policy in the public sector enterprises was laid on the Table of the Lok Sabha on 14 April 1961 in which it has been stipulated that all vacancies should be communicated to employment exchanges and advertisements should be published in local languages and local newspapers. It is clear that even the judgement of the Supreme Court is not strictly followed.

For efficient functioning of an establishment and to serve the people better, it is essential that employees serving in a particular department should know the local or regional language of the area where the department is situated. Earlier, the knowledge of regional language or local language was an essential qualification for appointments. However, of late, the knowledge of regional or local language is not being insisted upon as a pre-requisite qualification in determining the eligibility condition for considering the candidature for a vacancy. Therefore, it is also proposed in the Bill that knowledge of regional language be made an essential qualification instead of desirable for appointment to Group C posts. This will serve two purposes. First, persons speaking the local language can be appointed who can liaison or communicate with the local people effectively and also to provide employment opportunities to the local people.

Hence this Bill.

NEW DELHI;
December 8, 2010.

BIJOYA CHAKRAVARTY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for publication of vacancies arising in public sector establishments in the newspapers, announcement on radio and television network through employment news bulletins and publication in the vernacular language newspapers of the area where the establishment is situated or the vacancy has arisen. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees one hundred crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 129 OF 2010

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-first year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2010.

Insertion of new article 30A.

2. After article 30 of the Constitution, the following heading and article thereunder shall be inserted, namely:—

"Right to Safe and Adequate Drinking Water

Provision of safe and adequate drinking water.

30A. (*1*) Every citizen shall have access to safe and adequate quantity of drinking water.

(2) **The State shall, within a period of five years from the date of coming into force of the Constitution (Amendment) Act, 2010, provide adequate number of handpumps or piped water connections alongwith installation of required number of water treatment plants in every village or habitation in order to ensure adequate availability of safe drinking water to every citizen.".**

STATEMENT OF OBJECTS AND REASONS

Water is an essential element for the existence of all living beings on earth. In our country, there is adequate water in ponds, lakes, rivers and oceans. However, in the absence of effective water management policy, river waters and other water bodies remain untapped. Moreover, due to lack of awareness regarding the importance of water among the common man, the condition of ponds and lakes has been deteriorating for the last several years.

There is acute shortage of drinking water everywhere in the country including the metropolitan cities. In most of the villages, particularly in Uttar Pradesh, Uttarakhand, Bihar, Madhya Pradesh and Rajasthan, the villages collect the rainwater in ponds which is utilized by them mainly for drinking purpose. Due to lack of any other alternative, they are forced to utilize this water which is unhygienic and unfit for human consumption.

In a welfare State like ours, it is the duty of the State to fulfil the basic needs of its citizens. Therefore, the State is required to provide safe drinking water to every citizen.

If the right to get safe drinking water is made a fundamental right, the State shall have to provide potable water to the citizens. Otherwise, the rural and urban people will have the right to take recourse to the court collectively or individually with the purpose of compelling the Government to provide safe and adequate quantity of drinking water to them. Such a step shall give a new direction to the Government to tackle this serious problem. The Bill, accordingly, seeks to amend the Constitution.

NEW DELHI;
October 25, 2010.

P.L. PUNIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for giving the citizens the right to potable water and the State shall provide facility of piped water connections or handpumps in every village or habitation. The Bill, therefore, if enacted, is likely to involve an annual recurring expenditure of about rupees fifteen thousand crore from the Consolidated Fund of India.

An amount of about rupees seventy crore will also be involved from the Consolidated Fund of India towards non-recurring expenditure.

BILL NO. 142 OF 2010

A Bill to provide for the setting up of a Commission to exploit renewable energy resources in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Renewable Energy Resources Commission Act, 2010. Short title, extent and commencement.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. In this Act, unless the context otherwise requires,— Definitions.

(*i*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*ii*) "Commission" means the Renewable Energy Resources Commission set up under section 3;

(*iii*) "prescribed" means prescribed by rules made under this Act; and

(*iv*) "renewable energy" means energy obtained from non-conventional sources such as sunlight, wind, ethanol, jatropha, urban waste, geothermal sources, tides, waves or any other such source.

Renewable Energy Resources Commission.

3. (*1*) **The Central Government shall set up a Commission to be known as the Renewable Energy Resources Commission.**

(*2*) **The Commission shall consist of:—**

(*i*) **a chairperson to be appointed by the Central Government having such qualification as may be prescribed;**

(*ii*) **one representative each from every State/Union territory to be nominated by the State Government/Union territory Administration concerned; and**

(*iii*) one representative each from the Planning Commission, Union Ministries of Power, Water Resources, Rural Development, Urban Development, Finance and Environment and Forests.

(*3*) Secretary, Union Ministry of New and Renewable Energy shall be *ex-officio* Secretary to the Commission.

(*4*) **The salaries and allowances payable to and other terms and conditions of the service of the Chairperson and members of the Commission shall be such as may be prescribed.**

Every State Government/ Union territory Administration to constitute Renewable Energy Resources Commission.

4. (*1*) **Every State Government/Union territory Administration shall constitute a Renewable Energy Resources Commission.**

(2) The State/Union territory Commission shall consist of a Chairperson and such number of other members as the State Government/Union territory Administration may deem necessary to nominate.

State Government to send detailed report to the Commission.

5. Every State/Union territory Commission shall, as soon as possible, but not later than one year from the date of commencement of this Act, identify the exploitable sources of renewable energy in their respective jurisdictions and send a report thereon to the Commission.

Commission to depute a team of experts to the State/Union territory.

6. (*1*) **The Commission shall, on receipt of report from the State/Union territory Commission, depute a team of experts to the State/Union territory to verify and assess the possibility of exploiting renewable energy resources.**

(*2*) The team of experts shall submit a report to the Commission at the earliest.

(*3*) The Commission shall, on the basis of the report submitted by the team of experts, work out the estimated expenditure on the projects relating to exploitation of renewable energy and sent a report thereon to the Central Government.

Central Government and State Government to contribute towards the expenditure.

7. The Central Government and the State Governments shall contribute towards the expenditure incurred on the projects relating to exploitation of renewable energy in such ratio as may be prescribed:

Provided that the Central Government shall contribute not less than fifty per cent. of the total expenditure.

Projects to be completed in a time bound manner.

8. (*1*) The projects relating to exploitation of renewable energy shall be completed in a time bound manner.

(*2*) The Central Government shall release funds for the implementation of projects relating to exploitation of renewable energy after making such enquiry about the progress of projects, as it may deem fit.

Power to make rules.

9. *(1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India has vast reserves of natural resources—both renewable and non-renewable. In the last few decades, the over dependence on fossil fuels for meeting our energy needs have resulted in many ecological and climatological issues including global warming. All over the world there is a shift towards greater use of renewable energy sources as they are not only available in abundance but also considered to be non-polluting in comparison to fossil fuels. All over world, more than twenty per cent. of energy requirements are being met through renewable energy sources. In our country, the dependence on fossil fuels is not at all good for our economy as we have to import more than fifty per cent. of our petroleum requirements. In the coming years, with the acceleration of industrialization and rising demand of energy from our people, demand for power is going to increase manifold and the situation may worsen if immediate steps are not taken to promote exploitation of renewable energy resources. It is proposed to constitute a Renewable Energy Resources Commission with a view to give fillip to the exploitation of renewable energy resources.

The Bill seeks to achieve the above objectives.

NEW DELHI;
October 28, 2010.

P.L. PUNIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of a Renewable Energy Resources Commission. Clause 4 provides that similar Commissions shall be constituted in every State and the Union territory. Clause 6 provides that the Commission shall send a team of experts to the States and the Union territories with a view to verify the report sent by them and assess the possibility of exploitation of renewable energy resources. While the expenditure relating to States shall be borne out of the Consolidated Funds of the respective States, the expenditure in respect of Union territories shall be borne out of the Consolidated Fund of India. Clause 7 provides that the Central Government shall contribute to the expenditure incurred on the projects relating to exploitation of renewable energy in such ratio as may be prescribed. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees ten thousand crore will be involved.

A non-recurring expenditure of about rupees five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 141 OF 2010

A Bill to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2010.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 3.

33 of 1989.

2. In the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (hereinafter referred to as the principal Act), in section 3,—

(*a*) in sub-section (*1*), for the words "which shall not be less than six months but which may extend to five years and with fine", the words " which shall not be less than five years but which may extend to ten years and with fine" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) in clause (*ii*), for the words "six months", the words "five years" shall be substituted;

(*ii*) in clause (*iii*) for the words "six months", the words "five years" shall be substituted; and

(*iii*) in clause (*vii*) for the word' "one year but which may extend to the punishment provided for that offence", the words "three years in addition to the punishment provided for that offence" shall be substituted.

Insertion of new section 3A.

3. In the principal Act, after section 3, the following new section shall be inserted, namely:—

Compulsory registration of cases of atrocities on members of Scheduled Caste and Scheduled Tribe.

"**3A.** (*1*) Whenever an officer in-charge of a police station receives an information from any person or otherwise that an atrocity has been committed on the members of the Scheduled Caste or the Scheduled Tribe within his jurisdiction, he shall immediately visit the place of occurrence of atrocity to assess the extent of atrocity and shall register the case and forward the details of such case to the Deputy Superintendent of Police/Superintendent of Police concerned for the purpose of investigation of the case.

(*2*) If the in-charge of a Police Station fails to register the case or causes undue delay in registration of the case under this Act, he shall be subject to such departmental disciplinary action as may be prescribed.

(*3*) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police.

(*4*) The Investigation Officer so appointed under sub-section (*3*) shall complete the investigation within a period of thirty days from the date of registration of such case and file the charge sheet in the Special Court set up under section 14.

(*5*) If the Investigation Officer appointed under sub-section (*3*) fails to submit investigation report within the prescribed period of thirty days, he shall be subject to such departmental disciplinary action as may be prescribed.".

Amendment of section 4.

4. In section 4 of the principal Act, for the words "which shall not be less than six months but which may extend to one year", the words "which shall not be less than three years but which may extend to five years and with fine" shall be substituted.

Amendment of section 5.

5. In section 5 of the principal Act, for the words "one year", the words "three years" shall be substituted.

Amendment of section 10.

6. In section 10 of the principal Act, in sub-section (*1*), for the words "two years", the words "ten years" shall be substituted.

Amendment of section 13.

7. In section 13 of the principal Act, for the words "one year", the words "five years" shall be substituted.

Substitution of new section for section 14

8. For section 14 of the principal Act, the following section shall be substituted, namely:—

Special Court.

"**14.** (*1*) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a separate Court of Session to be a Special Court to exclusively try the offences under this Act.

(*2*) The Special Court shall complete the trial of a case within a period of three months from the date of filing of such case in that Court.".

STATEMENT OF OBJECTS AND REASONS

Article 17 of the Constitution provides for the abolition of Untouchability in any form. In pursuance of article 17, Central Government enacted the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 with a view to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes and to provide for Special Courts for speedy trial of such offences. However, it is amazing that in the recent past, there has been an unprecedented rise in the number of cases of atrocities against persons belonging to the Scheduled Castes and the Scheduled Tribes in all parts of the country. The majority of persons belonging to the Scheduled Castes and the Scheduled Tribes are not able to enjoy their constitutional rights due to their present socio-economic conditions. People who commit atrocities do not have the fear of law. Influential people belonging to upper castes still treat people of scheduled castes as slaves. Any information of excesses or atrocities on Scheduled Castes and Scheduled Tribes should be so investigated that culprits are punished in shortest possible time. Every case should be monitored closely at each stage, namely, the stage of registration of crime, investigation, trial and Post-trial stage. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was passed to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes but it has not achieved the desired results. It is, therefore, necessary to enhance the quantum of punishment provided in the aforesaid Act. The enhanced punishment would act as a deterrent to the commission of offences under this Act. The Bill also seeks to set up Special Courts to exclusively deal with cases under the Act so as to ensure that the victims secure justice without any delay.

Hence this Bill.

P. L. PUNIA

NEW DELHI;
October 29, 2010.

BILL NO. 147 OF 2010

A Bill to protect the women Self Help Groups from exploitation by the Micro Finance Institutions in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Micro Finance Institutions (Regulation of Money Lending) Act, 2010.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*i*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*ii*) 'interest' means a return on the amount lent by the Micro Finance Institution to a Self Help Group;

(*iii*) 'loan' means an advance whether of money or in kind given to a Self Help Group in consideration of interest, whether given before the commencement of this Act or after such commencement and includes discount, money paid for or on account of or on behalf of or at the request of any person or any account, whatsoever and

every agreement (whatever its terms or form may be) which is in substance or effect a loan of money or in kind given to a Self Help Group and further includes, an agreement relating to the repayment of any such loan;

(*iv*) 'Micro Finance Institution' means any person, partnership firm, group of persons, including a Company registered under the provisions of the Companies Act, 1956, a Non-Banking Financial Company as defined under section 45-I of the Reserve Bank of India Act, 1934, a society registered under the Societies Registration Act, 1860, a trust created under the Indian Trust Act, 1882, a co-operative society registered under the Co-operative Societies Act, 1912 in whichever manner formed and by whatever name called, whose principal or incidental activity is to lend money or offer financial support of whatsoever nature to the low income population;

1 of 1956.
2 of 1934.
21 of 1860.
2 of 1882.
2 of 1912.

(*v*) 'Prescribed' means prescribed by rules made under this Act;

(*vi*) 'Registering Authority' means an Authority designated under section 3;

(*vii*) 'Registration' means registration granted to a Micro Finance Institution under this Act;

(*viii*) 'Self Help Group' means a group of women formed on principles of self help and registered as such with the appropriate Government; and

(*ix*) "Self Help Group member" means a registered member of a Self Help Group who intends to avail a loan through such Self Help Group.

Registering Authority for registration and regulation of Micro Finance Institutions.

3. The Central Government shall designate an Authority to be known as the 'Registering Authority' for the purpose of registration and regulation of Micro Finance Institutions in every district of the country.

Functions of Registering Authority.

4. (*1*) All Micro Finance Institutions operating in the country on the date of the commencement of this Act, shall, within thirty days from the date of commencement of this Act, apply for registration before the Registering Authority of the district concerned specifying therein such details as may be prescribed.

(*2*) Without prejudice to the generality of the foregoing provision such rules shall also provide for the name of villages or towns in which the Micro Finance Institutions are operating or propose to operate, the rate of interest being charged or proposed to be charged, system of conducting due diligence and system of effecting recovery and list of persons who may be authorized for conducting the activity of lending or recovery of money which has been lent.

(*3*) No Micro Finance Institution operating at the commencement of this Act or intending to start the business of lending money to Self Help Groups after the commencement of this Act shall grant any loan or recover any loan without obtaining registration under this Act from the Registering Authority.

(*4*) The Registering Authority shall verify the details furnished by the Micro Finance Institution and accord registration in such manner as may be prescribed for operation of Micro Finance Institutions for a period of not more than one year at a time.

(*5*) Every Micro Finance Institution shall submit a written undertaking declaring that it shall act in conformity with the provisions of this Act.

(*6*) Every Micro Finance Institution shall apply for renewal of registration at least sixty days before the expiry of the period of one year referred to in sub-section (*4*).

(*7*) The Registering Authority, on receipt of an application for renewal of registration shall either grant or refuse to grant the renewal of registration within fifteen days before the date of expiry of registration, after due verification of the performance of the Micro Finance Institutions in the field level and after hearing objections, if any, from the general public regarding extension of registration.

Register of Micro Finance Institutions.

5. (*1*) Every Registering Authority shall maintain for the area under its jurisdiction a register of all Micro Finance Institutions having valid registration in such form as may be prescribed.

(*2*) The register maintained under sub-section (*1*) shall be published in such manner and at such intervals as may be prescribed.

Cancellation of registration of Micro Finance Institutions.

6. (*1*) The Registering Authority may, at any time, either *suo motu* or upon receipt of complaints by Self Help Groups or its members or by members of the public, cancel the registration of a Micro Finance Institution after assigning sufficient reasons for such cancellation:

Provided that no order of cancellation of the registration shall be passed without giving an opportunity of being heard to the Micro Finance Institution concerned.

Explanation: For the purposes of this section, conviction of a Micro Finance Institution for an offence or violation of any of the provisions of this Act shall be a sufficient cause for suspension or cancellation of its registration.

(*2*) Pending inquiry under sub-section (*1*), the Registering Authority may, for sufficient reasons to be recorded, suspend the registration of a Micro Finance Institution.

Member of Self Help Group not to be member of more than one Self Help Group.

7. No member of a Self Help Group shall be a member of more than one Self Help Group:

Provided that where a member is, at the commencement of this Act, a member of more than one Self Help Group, such member shall have the option to retain the membership of only one Self Help Group and terminate the membership in other Self Help Groups:

Provided further that where a member expresses her intention of termination of membership of a Self Help Group, such member shall settle and pay the amount payable to the Micro Finance Institutions within a period of three months from the date of commencement of this Act.

Micro Finance Institutions not to seek security for loan.

8. No Micro Finance Institution shall seek any security from a borrower by way of pawn, pledge or any other security for the loan:

Provided that any such security obtained from a borrower before the commencement of this Act shall forthwith stand released in favour of the borrower.

Display of rates of interest chaged by Micro Finance Institutions.

9. (*1*) All Micro Finance Institutions shall display the rates of interest charged by them in a conspicuous place in their office premises in local language in bold letters visible to the members of the public.

(*2*) No Micro Finance Institution shall charge any other amount from the borrower except any charge prescribed in the rules for submission of an application for grant of a loan.

Maximum amount of interest recoverable on loans and discharge of loans in certain cases.

10. (*1*) No Micro Finance Institution shall recover from the borrower towards interest in respect of any loans advanced by it, whether before or after commencement of this Act, an amount in excess of the principal amount.

(*2*) All loans in respect of which a Micro Finance Institution has realized from the borrower, whether before or after commencement of this Act, an amount equal to twice the amount of the principal, shall stand discharged and the borrower shall be entitled to obtain refund and the Micro Finance Institution shall be bound to refund the excess amount paid by the borrower.

Prior approval for grant of further loans to Self Help Groups or their members.

11. (*1*) No Micro Finance Institution shall extend a further loan to a Self Help Group or its members, where the Self Help Group has an outstanding loan from a bank unless the Micro Finance Institution obtains the prior approval in writing in such manner as may be prescribed from the Registering Authority after making an application seeking such approval.

(*2*) The Registering Authority while considering such application from a Micro Finance Institution seeking approval as aforesaid, shall secure the following information in writing from the Micro Finance Institution in regard to every member of Self Help Group namely,—

(*i*) name of the Borrower;

(*ii*) name of the Self Help Group;

(*iii*) bank from which loan has been obtained by the Self Help Group;

(*iv*) date of the loan granted by the bank;

(*v*) amount paid to the Self Help Group by the bank;

(*vi*) amount due from the Self Help Group;

(*vii*) fresh amount of loan sought by the Self Help Group from the Micro Finance Institution;

(*viii*) terms of repayment proposed by the Micro Finance Institution;

(*ix*) details of due diligence including the capacity of the Self Help Group for repayment; and

(*x*) such other details as may be prescribed by rules made under this Act.

(*3*) The Registering Authority shall, not later than fifteen days from the date of filing of such application for approval under sub-section (*2*), cause an inquiry into the contents of the application and shall grant approval for further loan if the Registering Authority is satisfied that the Self Help Group and its members have passed a resolution that they have understood the conditions of the loan and terms of repayment and the Registering Authority is also satisfied that such further loan would generate additional income to the Self Help Group and its members for servicing the debt.

(*4*) No Micro Finance Institution shall grant loan to a member of Self Help Group during the subsistence of two previous loans irrespective of the source of the previous two loans.

Duty of Micro Finance Institutions to maintain accounts and furnish copies.

12. (*1*) All borrowings by a member of a Self Help Group from a Micro Finance Institution shall be contracted in such manner, form and format, as may be prescribed.

(*2*) Every Micro Finance Institution shall keep and maintain a cash book, a ledger and such other books of account in such form and manner as may be prescribed.

(*3*) Every Micro Finance Institution shall—

(*a*) deliver or cause to be delivered, to the borrower within seven days from the date on which a loan is made, a statement in the prescribed form showing in clear and distinct terms the amount and date of the loan and of its maturity, the name and address of the functionary of the Micro Finance Institution and the effective rate of interest charged;

(*b*) upon repayment of a loan in full, obtain an indelible mark on every paper signed by the borrower with words indicating such repayment and provide copies thereof to the borrower.

(*4*) No Micro Finance Institution shall receive any payment from a borrower on account of any loan without giving him a duly signed receipt for the payment.

(*5*) Every Micro Finance Institution shall, on a demand in writing by the borrower, supply a copy of any document relating to a loan obtained by her, or if the borrower so requires, to any person specified in that behalf in the demand:

Provided that in respect of loans given prior to the commencement of this Act, it shall be obligatory for the lender to specify if any security was accepted from the borrower.

(*6*) All tranches of repayment shall be made by the group at the office of the Gram Panchayat only.

(*7*) No Micro Finance Institution shall deploy any agent for recovery or use any other coercive action either by itself or by its agents for recovery of money from the borrower; and any form of coercive recovery including but not limited to visiting the house of the borrower shall, apart from being punishable under the provisions of this Act, empower the Registering Authority to suspend or cancel the license of such Micro Finance Institution.

Submission of monthly statement by Micro Finance Institutions.

13. Every Micro Finance Institution shall submit a monthly statement to the Registering Authority before 10th day of every month giving therein the list of borrowers, the loan given to each, the rate of interest charged on the loan and the repayment made.

Power to require production of records or documents and power of entry, inspection and seizure.

14. (*1*) The Registering Authority or any officer authorised by him in this behalf may, to verify whether the business of the Micro Finance Institution is being carried on in accordance with the provisions of this Act, enter the premises of the Micro Finance Institution office or of any person who in his opinion is carrying on the business of lending and call upon him to produce any record or document relating to such business and every such Micro Finance Institution shall allow such inspection and produce such record or document.

(*2*) The Registering Authority may, for the purpose of sub-section (*1*), search the premises and seize any record and document as may be necessary and the record or document seized shall be retained only for such period as may be necessary for the purposes of examination, prosecution or other legal action:

Provided that the provisions of sections 100 and 102 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to such search and seizure. 2 of 1974.

(*3*) The Registering Authority or the other officer referred to in sub-section (*1*) shall also have power to summon and examine the Micro Finance Institution or any person who in his opinion is in a position to furnish relevant information.

Complaints.

15. (*1*) Any Self Help Group or its members or any member of the public may file a complaint regarding violation of the provision of this Act by a Micro Finance Institution before the Registering Authority.

(*2*) The Authority, on receipt of a complaint, shall inquire into the same after giving a reasonable opportunity to the Micro Finance Institution to show cause and pass such orders as it may deem fit.

Settlement of disputes between Self Help Group and Micro Finance Institution.

16. (*1*) For the protection of debtors and for the settlement of disputes of civil nature between the Self Help Group or its members on the one hand and the Micro Finance Institution on the other hand or between the members of the Self Help Group and the Self Help Group, in relation to the loans granted under this Act to the Self Help Group or its members, the appropriate Government after consultation with the High Court, and by notification,—

(*a*) shall, as soon as may be after the commencement of this Act, establish for every district in the State a Fast-Track Court;

(*b*) may establish Fast-Track Court for such other areas in the State, as it may deem necessary.

(*2*) The appropriate Government shall, after due consultation with the High Court concerned, specify, by notification, the local limits of the area to which the jurisdiction of a Fast-Track Court shall extend and may, at any time, increase, reduce or alter such limits.

(*3*) The cases that may be filed before the Fast-Track Court shall be disposed of within a period of three months.

(*4*) The decree of the Fast-Track Courts shall be liable to be executed in accordance with the procedure under the Code of Civil Procedure, 1908. 5 of 1908.

Penalty for coercive actions by Micro Finance Institutions.

17. (*1*) All persons who are connected with and responsible for the day-to-day control, business and management of a Micro Finance Institution including the Partners, Directors and the employees who resort to any type of coercive measures against the Self Help Groups or its members or their family members shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees or with both.

Explanation:— For the purpose of this section, "coercive action" by a Micro Finance Institution against the Self Help Groups or its members or their family members include the following:—

(*a*) obstructing or using violence to, insulting or intimidating the borrower or her family members, or

(*b*) persistently following the borrower or her family members from place to place or interfering with any property owned, or used by her or depriving her of, or hindering her in, the use of any such property, or

(*c*) frequenting the house or other place where such other person resides or works, or carries on business, or happens to be, or

(*d*) doing any act calculated to annoy or intimidate such person or the members of her family, or

(*e*) moving or acting in a manner which causes or is calculated to cause alarm or danger to the person or property of such other person, or

(*f*) seeking to remove forcibly any document from the borrower which entitles the borrower to a benefit under any Government programme:

Provided that a person who frequents the house or place referred to in clause (*c*) in order merely to obtain or communicate information shall not be deemed to be using coercive action.

(*2*) The Micro Finance Institution or the persons who use coercive actions shall be prosecuted in accordance with the provisions of this Act.

2 of 1974.

(*3*) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the proceedings before a Fast-Track Court, and for the purpose of the said provisions, a Fast-Track Court shall be deemed to be a Magistrate.

Penalty for carrying on business without registration.

18. All persons who are connected with and responsible for the day-to-day control, business and management of a Micro Finance Institution, including the Partners and Directors of Institution, which carries on the business of providing loans without obtaining registration from the Registering Authority shall be punished with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees.

Penalty for contravention of the provisions of the Act.

19. If any person contravenes any provision other than those of sections 4, 17 and 18 of this Act, he shall be punished with imprisonment for a term of six months or with fine which may extend to ten thousand rupees or with both.

Every officer to be public servant.

20. Every officer of the Government and every person acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Bar on certain proceedings.

21. (*1*) No suit, prosecution or other proceedings shall lie against any officer or employee of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Government.

(*2*) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is, in good faith, done or intended to be done under this Act or the rules made thereunder.

Power to remove difficulties.

22. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification, remove difficulties by orders not inconsistent with the provisions of this Act, but which appear to them to be necessary or expedient to remove such difficulty:

Provided that no such order shall be made after the expiry of a period of three years, from the date of commencement of this Act.

Power to give directions.

23. The Government may, from time to time, issue such orders, instructions and directions not inconsistent with the provisions of this Act and the rules made thereunder to

the officers for the proper administration of the Act, and such officers and all other persons employed in the enforcement of the Act, shall comply with such orders, instructions and directions.

Annual report.

24. The Central Government shall prepare an annual report, in such form and manner, as may be prescribed, on the administration of this Act and cause the same to be laid before each House of Parliament.

Power to make rules

25. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, so, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The State Governments have made rapid strides in the field of financial inclusion of the rural and urban poor by organising women Self Help Groups (SHG) and linking them with the banks for meeting their credit needs.

However, of late, many individuals and other entities have come up styling themselves as Micro Finance Institutions and are giving loans to Self Help Groups at very high or usurious rates of interest and are using inhuman coercive methods for recovery of the loans. This has even resulted in suicides by many rural poor who have obtained loans from such individuals or entities.

In the larger public interest and to protect the poor from exploitation, and to regulate the lending of monies to the Self Help Groups by the Micro Finance Institutions, it is urgently required to bring forward a suitable legislation to check the illegal acts of these Micro Finance Institutions across the country.

This Bill seeks to achieve the above objectives.

NEW DELHI;
November 8, 2010.

P.L. PUNIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall designate an authority to be known as the "Registering Authority" in every district for the purpose of registration and regulation of Micro Finance Institutions. Clause 5 provides for maintenance of registers of all Micro Finance Institutions by the Registering Authority. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve about rupees one hundred crore as recurring expenditure per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

T.K. VISWANATHAN,
Secretary-General

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